

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36254 of 2020

Arising Out of PS. Case No.-72 Year-2019 Thana- PAROO District- Muzaffarpur

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1. Umesh Rai Son Of Late Ayodhya Rai
 2. Rita Devi Wife Of Umesh Rai
 3. Sudhir Rai Son Of Umesh Rai
 4. Sindhu Devi Wife Of Sudhir Rai
 5. Surendra Rai @ Surendra Kumar Son Of Umesh Rai
 6. Soni Devi Wife Of Surendra Rai @ Surendra Kumar

All residents of village - Mahmadpur, P.S. - Paru, District - Muzaffarpur.

... .. Petitioners

Versus

The State Of Bihar

... .. Opposite Party

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Appearance :

For the Petitioners : Mr.Amit Bhushan, Advocate
For the Opposite Party : Dr. M. K. Gautam, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 26-05-2021 Heard learned counsel for the petitioners and learned

Additional Public Prosecutor for the State via video

conferencing.

2. In the instant case, the petitioners have

prayed for grant of pre-arrest bail in connection with Paru P.S.

Case No. 72 of 2019 registered under Sections 302, 201/34 of

the Indian Penal Code.

3. From perusal of the order dated 15.02.2020

passed by the learned Additional Sessions Judge-VI,



Muzaffarpur in Anticipatory Bail Petition No. 1667 of 2019, it appears that initially, the case diary was summoned but the prayer for grant of pre-arrest bail was rejected in absence of the case diary.

4. In the opinion of this Court, the court below has grossly erred in disposing of the bail application without looking into the case diary after summoning the same from the investigating officer. Once the court was of the opinion that the prior to disposal of the bail application, it was necessary to look into the materials collected during investigation, it ought to have ensured compliance of its order. It ought not to have disposed of the application without looking into the materials collected during investigation. In case, the investigating officer was not complying with the order passed by the court, the Code of the Criminal Procedure gives the court ample power to get its order complied and executed.

5. In that view of the matter, the order dated 15.02.2020 passed by the learned Additional Sessions Judge-VI, Muzaffarpur in Anticipatory Bail Petition No. 1667 of 2019 is set aside. The matter is remanded back to the learned Additional Sessions Judge-VI, Muzaffarpur. He is directed to rehear the matter after obtaining the case diary from the police and pass



appropriate order in accordance with law. The Superintendent of Police Muzaffarpur is directed to ensure compliance of the order passed by the court below. He is directed to ensure that the case diary of Paru P.S. Case No. 72 of 2019 is sent to the court of Additional Sessions Judge-VI, Muzaffarpur forthwith. The learned Additional Sessions Judge-VI, Muzaffarpur is directed to dispose of the application preferred under Section 438 of the Cr.P.C. on receipt of the diary as early as possible and preferably within a period of four weeks.

6. Registry is directed to transmit a copy of the order to the Superintendent of Police, Muzaffarpur through electronic mode without any delay.

7. Since the court proceedings are being conducted through virtual mode, it is considered appropriate to adopt the following procedure for communication of the present order:-

- (i) The order, which has been dictated during the course of proceeding of the virtual court, shall be communicated to me electronically by the Joint Registrar-cum-Addl. PPS.
- (ii) The corrected copy of the order shall be transmitted by me to the Joint Registrar-cum-Addl. PPS



electronically, which shall be treated to be an authentic copy of the order passed by this Court in the present proceeding.

- (iii) Hard copy of the order duly signed by me shall be preserved in my residential office for documentation and future use, if any.
- (iv) Let steps be taken by the Joint Registrar-cum-Addl. PPS/registry for up-loading of the present order without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J)

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