

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11586 of 2021

Arising Out of PS. Case No.-160 Year-2020 Thana- SAHPUR District- Bhojpur

1. LALU PRASAD YADAV @ LALU YADAV Son of - Shiv Shankar Yadav @ Pathak, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.
2. Golu Kumar Yadav @ Golu Yadav Son of - Shiv Shankar Yadav @ Pathak, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.
3. Mulayam Yadav Son of - Shiv Shankar Yadav @ Pathak, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.
4. Shiv Shankar Yadav @ Pathak Son of Biswanath Yadav, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.
5. Daya Shankar Yadav Son of Biswanath Yadav, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.
6. Din Bhandhu Yadav Son of Daya Shankar Yadav, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.
7. Sudarshan Yadav Son of Ram Pravesh Yadav, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.
8. Vikash Yadav Son of Daroga Yadav, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.
9. Ram Dulari Devi Wife of Shiv Shankar Yadav, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.
10. Kanchan Devi Wife of Din Bandhu Yadav, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.
11. Prabhu Nath Singh @ Prabhu Yadav Son of Ram Balak Yadav, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.
12. Kapil Muni @ Bhuar Yadav Son of Prabhu Yadav @ Prabhu Nath Yadav, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.
13. Krishna Yadav @ Krishna Kumar Son of Prabhu Yadav @ Prabhu Nath Yadav, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.
14. Bijendra Yadav Son of Nand Kumar Yadav, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.
15. Pukki Yadav Son of Lakshman Yadav, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.
16. Munni Kumari Daughter of Daya Shankar Yadav, Resident of Village- Itwa, P.S.- Shahpur, District- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s

:

Mr.Shiv Prasad Gupta



For the Opposite Party/s : Mr. Shyam Kumar Singh

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

4 10-01-2022 Heard the learned counsel for the petitioners as well as the learned Additional Public Prosecutor for the State through video conferencing.

The learned counsel for the petitioners is directed to remove all the defects pointed out by the office within one month.

At the very outset, the learned counsel for the petitioners has submitted that during the pendency of this criminal miscellaneous petition, petitioner nos. 4, 11, 12, 13 and 15 have been arrested, as such, this criminal miscellaneous petition has become infructuous with respect to them.

In view of above submission, this criminal miscellaneous petition is dismissed as infructuous with respect to petitioner nos. 4, 11, 12, 13 and 15.

So far as rest petitioners is concerned, they apprehend their arrest in connection with Shahpur P.S. Case No. 160 of 2020 registered for the offence punishable under section 30 (a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

So far as the maintainability of the bail petition is concerned, Section 76 (2) of the Bihar Prohibition and Excise



Act, 2016 makes an explicit embargo on entertaining the application under Section 438 of the Cr.P.C.

Since the provision of Section 438 of the Cr.P.C. is not applicable in respect of offences under the Bihar Prohibition and Excise Act, 2016, as such, this anticipatory bail application is dismissed, as not maintainable.

Office shall ensure that all defects are removed by the petitioners within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey , J)

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