

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.48470 of 2022**

Arising Out of PS. Case No.-376 Year-2019 Thana- KESARIA District- East Champaran

1. Nashim Khan @ Nashim Ahmad Khan S/O Imam Khan Resident Of Village- Bathna, P.S.- Kesaria, District- East Champaran, Motihari.
2. Shabaz Khan @ Shahbaz Ali Khan S/O Nashim Ahmad Khan Resident Of Village- Bathna, P.S.- Kesaria, District- East Champaran, Motihari.
3. Jaggu Khan @ Shakir Ali Khan S/O Salam Khan Resident Of Village- Bathna, P.S.- Kesaria, District- East Champaran, Motihari.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Mukesh Kumar Singh  
For the Opposite Party/s : Mr. Ram Sumiran Rai

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**  
**ORAL ORDER**

2      08-12-2022

Heard learned counsel for the parties.

Learned counsel for the petitioners undertakes to remove the defects as pointed out by the office.

The petitioners are apprehending their arrest in a case registered for the offence punishable under Section 341, 323, 302 and 504 of the Bihar Prohibition and Excise Act.

Learned counsel for the petitioners submits that the learned court below has rejected the anticipatory bail application on the ground that earlier petitioners have been granted regular bail, hence, after submission of the charge-



sheet, the anticipatory bail application filed on behalf of the petitioners appears to be not maintainable.

Considering the facts and circumstance of the case, this Court is not inclined to enlarge the petitioners on bail. Accordingly, their prayer for anticipatory bail is rejected in connection with Kesariya P.S. Case No. 376 of 2019.

However, if the petitioners surrender before the learned court below within a period of six weeks from today and pray for regular bail, the same shall be considered by the learned court below on the same day considering the judgment of this Court passed in the case of **Mahendra Prasad Singh Vs. The State of Bihar** reported in **2004 (3) PLJR 491** and particularly in para-6 thereof, which is quoted herein below:

*“In the facts of the case, petitioner must honour the terms of police bail and appear before the Court without any delay. In case, petitioner appears before the court below within six weeks then the court below shall consider his prayer for bail in accordance with law keeping in view of the well*



*established principle that a person who is already on bail shall not be denied such privilege unless there is any allegations of misuse etc.”*

**(Anjani Kumar Sharan, J)**

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