

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19124 of 2014

Arising Out of PS. Case No.-966 Year-2012 Thana- SAHARSA COMPLAINT CASE
District- Saharsa

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Anil Kumar @ Anil Kumar Yadav @ Anil Yadav S/o Bindeshwari Yadav
Resident of Village Baijnathpur, P.S. Sour Bazar, District Saharsa.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 20616 of 2014

Arising Out of PS. Case No.-542 Year-2013 Thana- PATNA COMPLAINT CASE District-
Patna

- =====
1. Zahid Eqbal and Ors S/o Md. Nazimuddin Resident of 301, B Block, Shivam Heritage, Magistrate Colony, Police Station Rajeev Nagar, Ashiana Nagar, Patna.
 2. Santosh Kumar Jha S/o Md. Prakash Chandra Jha Resident of At P.O. P.S. Bousi, District Banka.
 3. Sanjay Kumar Jha S/o Ramesh Nandan Jha Resident of at Dadani Chak, P.O. Beldiha, Police Station Belhar, District Banka.
 4. Vimal Kumar Jha S/o Sureshwar Jha Resident of At P.O. P.S. Bousi, District Banka.
 5. Pritam Kumar Jha S/o Chandrakant Jha Resident of At P.O. P.S. Bounsi, Panda Tola, District Banka.
 6. Deepak Sharan Singh S/o Bikrama Singh Resident of At 403, F Block, Mundeshwary Enclave, Akashwani Road, Khajpura, District Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 21866 of 2014

Arising Out of PS. Case No.-1317 Year-2012 Thana- MADHEPURA COMPALINT CASE
District- Madhepura

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Ajeet Kumar Bhagat S/o Late Parash Bhagat Resident of Village - Murliganj,
Nagar Panchayat Ward No. 07, P.S. - Muffasil, District – Madhepura.



.. ... Petitioner/s
Versus
The State Of Bihar

... ... Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 38303 of 2014

Arising Out of PS. Case No.-9 Year-2010 Thana- TARAIIYA District- Saran

1. Bir Bahadur Rai and Ors Son of Rajeshwar Rai Resident of village- Pipra, P.O.- Lauan, P.S.- Taraiyan, District- Saran at Chapra
2. Mithilesh Singh Son of Krit Singh
3. Kameshwar Sah Son of Late Laxman Sah
4. Sanajy Mahto Son of Chhati Lal Mahto Petitioner nos.- 2 to 4 are resident of village and P.O.- Pokhera, P.S.- Taraiyan, District- Saran at Chapra

... ... Petitioner/s
Versus
The State Of Bihar

... ... Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 55537 of 2018

Arising Out of PS. Case No.-1274 Year-2017 Thana- SARAN COMPLAINT CASE District- Saran

1. Rajendra Prasad @ Rajendra Kumar and Ors
2. Vijay Kumar @ Munna Jee @ Vijay Kumar Prasad,
3. Rajiv Kumar @ Rajiv Gupta @ Rajiv Kumar Gupta, All sons of Late Jitendra Kumar @ Lal Babu Prasad, All residents of Mohalla- Gandhi Chowk, Near Canara Bank, Chapra, P.S.- Chapra Town, District- Saran at Chapra.

... ... Petitioner/s
Versus
1. State Of Bihar and Anr
2. Smt. Neelam Kumari, W/o Raj Kumar @ Gudd, R/o Mohalla- Maura Chowk, Mitha Bazar, Chapra, P.S.- Chapra Town, District- Saran.

... ... Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 64211 of 2018



Arising Out of PS. Case No.-346 Year-2016 Thana- SITAMARHI COMPLAINT CASE
District- Sitamarhi

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1. Ashok Baitha and Anr
 2. Guddu Baitha. Both are sons of Ram Narayan Baitha, resident of Village-
Khairwa, Police Station- Bela, District- Sitamarhi.

... .. Petitioner/s

Versus

State Of Bihar and Anr

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 44395 of 2019

Arising Out of PS. Case No.-563 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

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1. HAMID RAZA S/o Rahmat Hussain Resident of Mohhal- Khoda Nagar,
P.S.- Chatauni, District- East Champaran
 2. Jameed Raza @ Jameed Hussain Son of Rahmat Hussain Resident of
Mohhal- Khoda Nagar, P.S.- Chatauni, District- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Samshad Son of Md. Munna Kureshi Resident of Village- Phulwari
Sharif, P.S.- Phulwari Sharif, District- Patna

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 57376 of 2019

Arising Out of PS. Case No.-222 Year-2017 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

SHAMIM AHMAD SHAMIM KHAN @ GAPPU TIGER Son of Late Rahim
Ahmad Resident of Village - Miscout, P.S.- Motihari Town, dist.- East
Champaran.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Dr. Sanjay Kumar Son of Shri Satyanarayan Prasad Resident of Village -
Bada Bariyarpur, P.S.- Chhataui, at Present Bata Gali Hospital Road, P.S.-
Town, Sitamarhi, dist.- Sitamarhi



... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 59044 of 2019

Arising Out of PS. Case No.-1323 Year-2017 Thana- GAYA COMPLAINT CASE District-
Gaya

SAJAN CHOUDHARY Son of Late Rajendra Chaudhary Resident of Village -
Gorel, P.S.- Mohanpur (Barachatti), District - Gaya

.. ... Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Gudiya Devi Wife of Sajan Chaudhary At present residing at Village - Hario,
P.S.- Magadh Medical, District- Gaya

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 59804 of 2019

Arising Out of PS. Case No.-940 Year-2017 Thana- COMPLAINT CASE District- Banka

MD. IMRAN ANSARI @ IMRAN ANSARI Son of Md. Sahadat Ansari
Resident of Village-Chandrapura, P.S-Dhoraiya, District-Banka.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Sakina Khatoon Wife of Imran Ansari @ Md. Imran Ansari Resident of
Chandrapura, P.O-Chalna, P.S-Dhoraiya, District-Banka. At present daughter
of Ayub Ansari, resident of village-Masuriya, P.S-Banka, District-Banka.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 60033 of 2019

Arising Out of PS. Case No.-802 Year-2018 Thana- ROHTAS COMPLAINT CASE District-
Rohtas

SUMIT KUMAR Son of Vijay Kumar R/o HIG-32, Mohalla- Sardar Patel
Nagar Housing Colony, P.O. and P.S.- Dhanbad, District- Dhanbad, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kumari Ekta Singh Wife of Sumit Kumar, Daughter of Dr. Vijay Kumar R/o
C/o- Sunil Kumar Near Kali Asthan Mohalla- Khilangaj, P.S.- Sasaram,
District- Rohtas.



... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 61405 of 2019

Arising Out of PS. Case No.-346 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

MANOJ KUMAR Son of Shri Ram Narayan Yadav Resident of Village-
Prasadi English (Maru Tola), Police Station-Arwal, District-Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pinky Kumari Wife of Shri Manoj Kumar, Daughter of Shri Kamlesh Kumar Resident of Village-Prasadi English (Maru Tola), Police Station-Arwal, District-Arwal. At present Resident of Village-Dorma-Mathiya, Police Station-Dulhin Bazar, District-Patna.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 63408 of 2019

Arising Out of PS. Case No.-167 Year-2019 Thana- NALANDA COMPLAINT CASE District-
Nalanda

VINOD KUMAR S/o Narayan Sharma R/o Village- Upadhayay Bigha, P.S.-
Bodhgaya, District- Gaya.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Manisha Sharma D/O Pradip Kumar Sharma R/o Mohalla- Shivpuri Nala Road, Behind Raj Utsav Hall, P.S.- Laheri, District- Nalanda.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 76448 of 2019

Arising Out of PS. Case No.-31 Year-2019 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

JATA SHANKER KUMAR @ JATA SHANKAR KUMAR Son of Ramudai
Sah Resident of Village-Katarmala, P.S.-Nimachandpura, District-Begusarai.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Priti Kumari Wife of Jata Shanker Kumar @ Jata Shankar Kumar Daughter



of Shashi Bhushan Prasad, Presently residing at village-Kasba, P.S.-Teghra,
District-Begusarai.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 2321 of 2020

Arising Out of PS. Case No.-1670 Year-2018 Thana- SITAMARHI COMPLAINT CASE
District- Sitamarhi

SANDEEP KUMAR Son of Late Satish Kumar Sinha Resident of Village-
Amba Kala, P.S.- Pipradhi, District- Sheohar, Present Address- Mines Manager
Sell Bullani, Bullani Township Bolbil, District- Urisha.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Summi Kumari Wife of Sandeep Kumar R/O Village- Amba Kala, P.S.-
Pipradhi, District- Sheohar, Present Address- Daughter of Rajesh Chandra
Verma, Railway Colony T/140 B, Road NO.-16, Gold Fild Railway Colony,
P.S.- Samastipur, District- Samastipur.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 3114 of 2020

Arising Out of PS. Case No.-1843 Year-2017 Thana- VAISALI COMPLAINT CASE District-
Vaishali

ASHOK KUMAR SHARMA @ ASHOK KUMAR Son of Late Rambriksh
Thakur @ Late Rambriksh Sharma Resident of Village - Sondho Mubarakpur,
P.S.- Goraul, Distt.- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Savita Devi W/o Ashok Kumar Sharma, D/o Fudeni Thakur Resident of
Village - Asatpur Satpura, P.S.- Bhagwanpur, Distt.- Vaishali.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 6457 of 2020

Arising Out of PS. Case No.-109 Year-2018 Thana- VAISALI COMPLAINT CASE District-
Vaishali

JITENDRA CHOUDHARY Son of Kari Choudhary Resident of Village -
Arania, P.S.- Jandaha, Distt – Vaishali.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR



2. Chanda Kumari Wife of Jitendra Choudhary Resident of Village - Arania, P.S.- Jandaha, Distt - Vaishali at present residing at village - Hapur Oasti, P.S.- Mahua, Distt - Vaishali.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 6461 of 2020

Arising Out of PS. Case No.-69 Year-2019 Thana- DARBHANGA COMPLAINT CASE
District- Darbhanga

MD. JASEEM @ LAL BABU @ MD. JASIM S/o Md. Taj R/o village- Akbarpur Bank, P.S.- Biraul, District- Darbhanga

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Aisa Khatoon W/o Md. Jaseem @ Lal Babu @ Md. Jasim, D/o Md. Basir R/o village- Pakari, P.S.- Alinagar, District- Darbhanga

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 8673 of 2020

Arising Out of PS. Case No.-856 Year-2013 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

RIPU RANJAN MISHRA @ BABLU MISHRA @ BABLU KUMAR MISHRA Son of Chuman Mishra Resident of Village - Bhada, P.O.- Dariya Pur, P.S.- Harsidhi, Distt.- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ripee Kumari @ Ripee Devi D/o Balkhandi Tiwari , W/o Ripu ranjan Mishra @ Bablu Mishra @ Bablu Kumar Mishra Resident of Village - Pipra, P.O.- Pipra, P.S.- Govind Ganj East Champaran. At Resident of Village - Bhada, P.O.- Dariyapur, P.S.- Harsidhi, East Champaran.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 9470 of 2020

Arising Out of PS. Case No.-1602 Year-2018 Thana- PATNA COMPLAINT CASE District- Patna

RAJ KUMAR YADAV @ RAJU KUMAR @ RAJU Son of Shri Rajendra Prasad @ Rajendra Yadav Resident of Dariyapur, Gola Mohar Tola Gali, P.S.- Kadamkuan, District- Patna

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Reena Kumari Wife of Raj Kumar Yadav @ Raju Kumar @ Raju and D/O - Sri Ranjit Prasad Yadav Resident of Mohalla- Hazari Mohalla, Morchapul,



Near Ranipur Devi Asthan, P.S.- Mehandiganj, District- Patna

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 2611 of 2021

Arising Out of PS. Case No.-2343 Year-2014 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

SANTOSH KUMAR PANDEY @ SANTOSH PANDEY Son of Mohan
Pandey Resident of Village - Jalha, P.S.- Sangrampur, Distt.- East Champaran.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Nitu Kumari W/o Santosh Kumar Pandey, D/o Bhuneshwar Dutt Trivedi
Resident of Village - Jalha, P.S.- Sangrampur, Distt.- East Champaran.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 2634 of 2021

Arising Out of PS. Case No.-1272 Year-2019 Thana- COMPLAINT CASE District- Araria

MD. IMTIYAZ @ IMTIYAJ @ MD. IMTIYAJ ALAM S/o Md. Yunus @
Manhga Resident of Village - Sisauna, P.S. - Jokihat, District- Araria.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Gulshan Ara W/o- Md. Imtiyaz @ Imtiyaj @ Md. Imtiyaj Alam D/O- Abdul
Karim Resident of Village - Gopalnagar, P.S. - Palasi, District- Araria.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 2657 of 2021

Arising Out of PS. Case No.-178 Year-2019 Thana- SITAMARHI COMPLAINT CASE
District- Sitamarhi

ROHIT KUMAR S/o Ganesh Pal R/o Village- Koat Bazar, Ward No.-12, P.S.-
Sitamarhi, Dist.- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Raj Lakshmi Devi W/o Rohit Kumar, D/o Mahendra Das R/o Village- Koat
Bazar, Ward No.-12, P.S.- Sitamarhi, Distt- Sitamarhi. At present R/o
Village- Mahavir Asthan Koat Bazar, Ward No.-11, P.S.- Sitamarhi, Dist-
Sitamarhi.

... .. Opposite Party/s

with



CRIMINAL MISCELLANEOUS No. 10398 of 2021

Arising Out of PS. Case No.-917 Year-2017 Thana- SIWAN COMPLAINT CASE District-
Siwan

MD. TAHIR HUSSAIN @ TAHIR HUSSAIN SON OF GANNI ANSARI
RESIDENT OF VILLAGE- BRAHAM ASTHAN, P.S- BHAGWANPUR
HATT, DISTRICT- SIWAN

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. PARMATMA SINGH SON OF NAGESHWAR SINGH RESIDENT OF
MADHAD, TOLE- MOHAR RAI, THANA-BHAGWANPUR HATT,
DISTRICT- SIWAN

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 11113 of 2021

Arising Out of PS. Case No.-917 Year-2017 Thana- SIWAN COMPLAINT CASE District-
Siwan

HARUN RASHID Son of Rauf Ansari Resident of Village - Hilsar Ekavan
Tola, P.s.- Bhagwanpur Hatt, Dist.- Siwan.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR PATNA, Bihar
2. PARMATMA SINGH Son of Nageshwar Singh Resident of Village -
Madhad, Tole Mohar Rai, P.s.- Bhagwanpur Hatt, Dist.- Siwan.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 11326 of 2021

Arising Out of PS. Case No.-1962 Year-2017 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

MUNNA MIYAN S/o Kaim Miyan R/o village- Mangarahi, Bairiya, P.S.-
Shikarpur, District- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shahjadi Khatoon W/o Munna Miyan, D/o Firoz Ansari R/o village- Naya
Tola Nandpur, P.S.- Shikarpur, District- West Champaran

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 12482 of 2021

Arising Out of PS. Case No.-655 Year-2008 Thana- PATNA COMPLAINT CASE District-
Patna

1. SURENDER PRASAD @ SURENDER SINGH Son of Late Baleshwar Rai



Resident of Village-Chanda, P.S.-Athmalgola, District-Patna.
2. Sudhir Rai @ Deepak Rai Son of Surender Prasad @ Surender Singh
Resident of Village-Chanda, P.S.-Athmalgola, District-Patna.
... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 12671 of 2021

Arising Out of PS. Case No.-1896 Year-2018 Thana- SITAMARHI COMPLAINT CASE
District- Sitamarhi

MD. ANWAR Son of Md. Adadu @ Sher Adud Resident of Village- Shambhu
Nagar, P.S.- Runnisaidpur, District- Sitamarhi.
... .. Petitioner/s

Versus

1. The State of Bihar
2. Roshni Khatoon Daughter of Sheikh Ahmed and Wife of Md. Anwar
Resident of Village- Shambhu Nagar, P.S.- Runnisaidpur, District-
Sitamarhi, presently Resideing at Village- Rupauli, P.S.- Runnisaidpur,
District- Sitamarhi.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 13651 of 2021

Arising Out of PS. Case No.-2548 Year-2016 Thana- SARAN COMPLAINT CASE District-
Saran

NANDLAL RAUT @ NANDLALA RAUT @ NANDLALA PD. BIN @
NANDLAL PD. BINT Son of Feku Bin Resident of Village - Madkan Bintoli,
P.S. - Husainganj, District - Siwan

... .. Petitioner/s

Versus

1. The State of Bihar
2. Radhika Devi Wife of Nandlal Raut @ Nandlala Raut @ Nandlala Pd. Bin
@ Nandlal Pd. Bint Resident of Village - Madkan Bintoli, P.S. - Husainganj,
District - Siwan Daughter of Late Jhulan Raut, Presently residing at Village -
Rasauli, P.S.- Panapur, District - Saran Chapra

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 15208 of 2021

Arising Out of PS. Case No.-1237 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna



MD. AZAD Son of Late Md. Hamid Resident of N.I.T. Road Golakhpur
Mahendru, P.S.- Sultangaj, Dist- Patna.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Nasrin Bano W/o Md. Azad, D/o Late Md. Mahmud Alam Present Residing
at (Maiké), Bari Khagaul near Phatak, P.S.- Khagaul, District- Patna.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 15621 of 2021

Arising Out of PS. Case No.-2372 Year-2018 Thana- SIWAN COMPLAINT CASE District-
Siwan

AZAD ALI Son of Janaullah Sheikh Resident of Village- Devraj, P.S.- Ram
Nagar, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shabbo Naj Wife of Azad Ali, Daughter of Md. Abdullah Sheikh Resident of
Village- Sarsaiya Chauk, Vishun Pakka Mor, P.S.- Siwan Nagar, District-
Siwan.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 17720 of 2021

Arising Out of PS. Case No.-655 Year-2017 Thana- VAISALI COMPLAINT CASE District-
Vaishali

RANJEET KUMAR @ RANJEET RAM S/O LATE NAGESHWAR RAM
R/O VILLAGE-PATSARA PACHIMI TOLA, P.S-PIAR, DISTRICT-
MUZAFFARPUR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 18587 of 2021

Arising Out of PS. Case No.-3785 Year-2015 Thana- PATNA COMPLAINT CASE District-
Patna

AJIT KUMAR CHARAN SON OF RAM NANDAN PRASAD R/O
AUNGARI, P.S.- EKANGARSARAI, DISTRICT- NALANDA, AT PRESENT
RESIDENT OF SHYAM KUTIR, JUSTICE B.N. ROY PATH, NEW AREA
KADAM KUAN, P.S. KADAMKUAN, DISTRICT- PATNA

... .. Petitioner/s



Versus

1. THE STATE OF BIHAR
2. ABHA SINHA D/O AJIT KUMAR VERMA D/O AJIT KUMAR CHARAN R/O MOHALLA- SALIMPUR AHRA, GALI NO. 1, GARDEN HOUSE, TENANT IN THE HOUSE OF RAVI SHANKAR, P.S.- GANDHI MAIDAN DISTRICT- PATNA

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 19628 of 2021

Arising Out of PS. Case No.-165 Year-2019 Thana- DERNI BAZAR District- Saran

1. RAUSHAN KUMAR SON OF MADAN MOHAN SHARMA RESIDENT OF VILLAGE- KAKARAHAT THIKA, P.S.- DERNI, DISTRICT- SARAN.
2. KISHAN KUMAR SON OF MADAN MOHAN SHARMA (IN THE F.I.R. MENTIONED AS THIRD SON OF MADAN MOHAN) RESIDENT OF VILLAGE- KAKARAHAT THIKA, P.S.- DERNI, DISTRICT- SARAN.
3. KARISHMA DEVI WIFE OF KISHAN KUMAR (IN THE F.I.R. MENTIONED AS GOTENI), RESIDENT OF VILLAGE- KAKARAHAT THIKA, P.S.- DERNI, DISTRICT- SARAN.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 21643 of 2021

Arising Out of PS. Case No.-2106 Year-2018 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

MD. FAIYAZ Son of Md. Kalam Resident of Village- Simraha, P.O. and P.S.- Akbarnagar, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shama Rani Wife of Md. Faiyaz, Daughter of Wasi Ahmad Resident of Simraha, Police Station- Akbarnagar, District- Bhagalpur.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 22755 of 2021

Arising Out of PS. Case No.-111 Year-2016 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

Rajeshwar Roy Son Of Late Mukkho Roy R/O Village- Morsandi, P.S.- Motipur, District- Muzaffarpur.



... .. Petitioner/s

Versus

1. The State of Bihar
3. Mukesh Kumar Son Of Late Chandeshwar Thakur R/O Mohalla- Bhabha Nagar, Bhagwanpur, P.S.- Sadar, District- Muzaffarpur.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 24784 of 2021

Arising Out of PS. Case No.-5289 Year-2018 Thana- PATNA COMPLAINT CASE District- Patna

AJAY NARAYAN JHA Son of Late Subh Narayan Jha Resident of Village - and P.O.- Ganouli, P.S.- Andhra Thari, Distt.- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Vinay Narayan Jha Son of Late Subh Narayan Jha Resident of Village - and P.O.- Ganouli, P.S.- Andhra Thari, Distt.- Madhubani, At present residing at Mohall- Shivpuri, P.S.- Shastri Nagar, Dist.- Patna.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 25495 of 2021

Arising Out of PS. Case No.-2151 Year-2018 Thana- PATNA COMPLAINT CASE District- Patna

PANKAJ KUMAR S/O KAILASH MAHTO R/o village- Chak Nawada, P.S.- Dalsing Sarai, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 38758 of 2021

Arising Out of PS. Case No.-1624 Year-2018 Thana- BHABHU(KAIMUR) COMPLAIN C District- Kaimur (Bhabua)

TARKESHWAR TIWARI @ CHHOTE TIWARI S/O KRISHNA KUMAR TIWARI R/o village- Parasiya, P.S.- Bhabua, District- Kaimur at Bhabua

... .. Petitioner/s

Versus

1. The State of Bihar



2. NIRMALA DEVI W/O TARKESHWAR TIWARI R/o village- Parsiya, P.S.-
Bhabua, District- Kaimur, at present village- Parsottampur, P.S.- Chainpur,
District- Kaimur (Bhabua)

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 43186 of 2021

Arising Out of PS. Case No.-356 Year-2019 Thana- JOGAPATTI District- West Champaran

RAMANAND YADAV S/o Late Shivbachan Yadav R/O Village - Koirgawa,
P.S. - Yogapatti, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 45124 of 2021

Arising Out of PS. Case No.-1865 Year-2019 Thana- PATNA COMPLAINT CASE District-
Patna

RAJEEV RANJAN KUMAR S/o Late Sundeshwar Rai Authorised Partner of
M/S Trimurti Construction Developers and Builders, also authorized partner of
Bihar Homes Develpers and Builders, 107 Beur City, Arman, Shiv Nagar
Colony, Behind Beur Jail, P.S.- Anisabad, District- Patna, and Presently
residing at Partner of Bihar Homes Developers and Builders, Western Mall,
405, 4th Floor, R.P.S. More, Bailey Road, P.S.- Danapur Nizamat, District-
Patna as well as DB- 76, Sector-1, Salt Lake City, P.S.- Bidhaan Nagar,
District- Kolkata, West Bengal

... .. Petitioner/s

Versus

1. The State of Bihar
2. MR. NARENDRA PRASAD GUPTA S/o Late Ramdhani Sao Resident of
Garikhana, Cantt Road, P.S.- Khagaul, District- Patna

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 45846 of 2021

Arising Out of PS. Case No.-1828 Year-2019 Thana- SARAN COMPLAINT CASE District-
Saran

UDAY KUMAR SAH S/o Bikarama Sah R/o village- Karhin, P.S.- Baniyapur,
District- Saran at Chapra

... .. Petitioner/s

Versus



1. The State of Bihar
2. CHANDRA DEEP SAH S/o Late Kanhai Sahi R/o village- Balua, P.S.- Jalalpur, District- Saran at Chapra

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 47556 of 2021

Arising Out of PS. Case No.-190 Year-2018 Thana- JEHANABAD COMPLAINT CASE
District- Jehanabad

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1. VINAY KUMAR @ VINAY MAHTO Son of Ram Swaroop Mahto Resident of Village- Alua Bigha, P.S.- Makhdumpur, District- Jehanabad, at Present Vapi (Gujrat)
 2. Sohan Chaudhary Son of Judagi Chaudhary Resident of Village- Mosima Sarai, P.S.- Ghosi, District- Jehanabad.
 3. Pramod Choudhary Son of Haren Chaudhary Resident of Village- Mosima Sarai, P.S.- Ghosi, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar
2. SUMAN KUMARI D/o Sarmanand Mahto Resident of Village- Naushehra, P.S.- Ghosi, District- Jehanabad.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 48337 of 2021

Arising Out of PS. Case No.-1500 Year-2019 Thana- COMPLAINT CASE District- Araria

GANESH KUMAR RAM S/o Late Shukar Ram Resident of Village - Gadyari Ambedkar Chowk, Ward no. 18, P.S. - Forbesganj, District - Araria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sita Devi W/O Ganesh Kumar Ram, D/O Rajendra Ram Resident of Village Kamalpur, P.S. - Raniganj, District - Araria.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 49793 of 2021

Arising Out of PS. Case No.-196 Year-2018 Thana- GAYA COMPLAINT CASE District- Gaya



PRAMOD THAKUR Son of Bedun Thakur Resident of village- Kedli Khurd,
P.O. Kedli Kala, P.S. Hantar Ganj, District - Chatra (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rajdeo Mistri Son of Jugeshwar Mistri Resident of village- Kedli Khurd,
P.O. Kedli Kala, P.S. Hantar Ganj, District - Chatra (Jharkhand).

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 50204 of 2021

Arising Out of PS. Case No.-3198 Year-2018 Thana- VAISALI COMPLAINT CASE District-
Vaishali

SHASHI RANJAN RAKESH @ SASHI RANJAN RAKESH S/o Lagan RAM
Posted as Station Superintendent at Ghanti Nadhipur, Post- Mahakal, District-
Katak, Odisha, R/o Ghanti Khal Nidhipur, P.S.- B.S. City, Bokaro, District-
Bokaro (Jharkhand)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anupriti Devi W/o Shashi Ranjan Rakesh R/o Ghanti Khal Nidhipur, P.S.-
B.S. City, Bokaro, District- Bokaro (Jharkhand) at present D/o Jaylal Ram,
R/o village- Bathna, Kathara O.P., P.S.- Goraul, District- Vaishali, Naihar
Address Village- West Gighghi Kala, P.S.- Hajipur, District- Vaishali

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 50381 of 2021

Arising Out of PS. Case No.-2 Year-2018 Thana- PATNA COMPLAINT CASE District- Patna

ASHOK KUMAR Son of Late Kanhaiya Prasad (Proprietor M/s. Surabhi
Pharma), Resident of Mohalla - Nagbanshi Sahay Lane, P.S. - Gaya, District -
Gaya.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 51145 of 2021

Arising Out of PS. Case No.-1296 Year-2016 Thana- GAYA COMPLAINT CASE District-
Gaya



RAM PADARATH SINGH S/o Late Ram Lakhan Singh R/o village- Khudia,
P.S.- Shekhupursarai, P.O.- Panhesa, District- Shekhpura

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kailash Prasad Yadav S/o Shri Vishwanath Yadav R/o village and P.O.- Ilra,
P.S.- Cherki, District- Gaya

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 51463 of 2021

Arising Out of PS. Case No.-53 Year-2018 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

MOHAN DUBEY Son of Radharaman Dubey Resident of Village - patti
Bokane, P.S.- Patahi, Distt.- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. CHITRAREKHA DEVI W/o Parsan Dubey Resident of Village - Patti
Bokane, P.s.- Patahi, Distt.- East Champaran.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 51465 of 2021

Arising Out of PS. Case No.-420 Year-2020 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

RAKESH PRASAD Son of Bhagat Prasad Resident of Village - Pakaridayal
Jaitia, P.S. - Pakaridayal, District - East Champaran.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. Prem Kumar S/o Ram Balak Prasad Resident of Village - Bakitikam, P.S. -
Madhuban, District - East Champaran.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 52168 of 2021

Arising Out of PS. Case No.-954 Year-2020 Thana- COMPLAINT CASE District- Araria

1. VISHNU PASWAN S/o Upendra Paswan R/o Village/ Mohalla- Hospital
Road, Ward No.07, Forbesganj, P.S.- Forbesganj, District- Araria.



2. Krishna Kr. Paswan @ Krishna Kumar @ Krishna Kumar Paswan Son of
Upendra Paswan R/o Village/ Mohalla- Hospital Road, Ward No.07,
Forbesganj, P.S.- Forbesganj, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 52775 of 2021

Arising Out of PS. Case No.-326 Year-2020 Thana- BHABHU(KAIMUR) COMPLAIN C
District- Kaimur (Bhabua)

RAJESH KUMAR SINGH S/o LATE VIJAY BAHADUR SINGH R/o
VILLAGE-TAJPUR KURRAH, P.S-DILDAR NAGAR, DISTRICT-
GHAZIPUR (U.P.)

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. KUMARI GUNJAN W/o RAJESH KUMAR SINGH, D/o AMAR NATH
SINGH R/o VILLAGE-TAJPUR KURRAH, P.S-DILDAR NAGAR,
DISTRICT-GAZIPUR (U.P) AT PRESENT ADDRESS VILLAGE-
SASANA, P.S-KUDRA, DISTRICT-KAIMUR AT BHABUA.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 53299 of 2021

Arising Out of PS. Case No.-1083 Year-2020 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

ANIL PANDIT @ ANIL PADIT S/o DARSHAN PANDIT @ DARSHAN
PADIT R/o VILLAGE-NARULAHAN BHATWALIYA, WARD No.1, P.O-
BHATWALIYA, P.S-SANGRAMPUR, DISTRICT-EAST CHAMPARAN.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. POONAM DEVI D/o MAHENDRA PADIT, W/o ANIL PANDIT @ ANIL
PADIT R/o VILLAGE-BUCHA, P.O-RAGHUNATHPUR BAZAR, P.S-
SUGAULI, DISTRICT-EAST CHAMPARAN.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 54206 of 2021



Arising Out of PS. Case No.-384 Year-2020 Thana- JEHANABAD COMPLAINT CASE
District- Jehanabad

MD JAVED Son of Md. Ataul R/o Village- Laxmipur, P.S.- Belaganj, Disst-
Gaya.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Shabana Khatoon W/o Md. Javed R/o Village- Laxmipur, P.S.- Belaganj,
Distt- Gaya. at present R/o Village- Uttrapatti, P.S.- Shakurabad, Distt-
Jehanabad.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 54667 of 2021

Arising Out of PS. Case No.-156 Year-2021 Thana- COMPLAINT CASE District- Jamui

SHALIK PASWAN @ SHALIGRAM PASWAN Son of Kodo Paswan @
Kodai Paswan Resident of Village - Lakhan Kiyari, P.S.- Sono, District -
Jamui.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 56315 of 2021

Arising Out of PS. Case No.-58 Year-2020 Thana- SHEKHPURA COMPLAINT CASE
District- Sheikhpura

SHAIENDRA KUMAR @ SHALIL Son of Late Baijyanath Singh Yadav
Resident of Village- Bhudhdeochak, P.S.- Fatuwa, District- Patna.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Suman Kumari Wife of Shailendra Kumar @ Salil, Daughter of
Krishnanandan Yadav Resident of Village- Buddhdevchak, Fathuana, P.S.-
Fatuha, District- Patna, at present residing at village- Nasibchak, P.S.-
Barbiga, District- Sheikhpura.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 57615 of 2021



Arising Out of PS. Case No.-313 Year-2016 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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SANJAY DUBEY SON OF CHANDRADEV DUBEY R/O VILLAGE-
JAMUNAPUR, P.S.- LAUKARIYA, DISTRICT- WEST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 57654 of 2021

Arising Out of PS. Case No.-427 Year-2021 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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SAURAV KUMAR @ SAURABH KUMAR Son of Shailendra Kumar
Resident of Makhachak, ward No.6, Bakhri Bazar, P.S.- Bakhri, District-
Begusarai.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Prema Verma W/o Saurav Kumar @ Saurabh Kumar , D/o- Avinash Kumar
Verma Resident of Shivpuri Pokharia, Ward No.36, Near Balidari Durga
Sthan, P.S.- Begusarai, District- Begusarai.

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 58503 of 2021

Arising Out of PS. Case No.-776 Year-2018 Thana- NALANDA COMPLAINT CASE District-
Nalanda

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MANOJ KUMAR @ MANOJ SAO S/o- Sidheshwar Sao Resident of Village-
Kosiawan, P.S.- Ekangarsarai, District- Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 58924 of 2021

Arising Out of PS. Case No.-211 Year-2019 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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ASHOK SAHANI Son of Ramuni Sahani @ Ramun Sahani Resident of
Village - Jaisinghpur (Bhelha), P.S. - Turkauliya, District - East Champaran.



... .. Petitioner/s

Versus

1. The State of Bihar
2. Chhathu Sahni Son of Late Bhagan Sahni Resident of Village - Majharia, P.S. - Piprakothi, District - East Champaran.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 59713 of 2021

Arising Out of PS. Case No.-2276 Year-2018 Thana- VAISALI COMPLAINT CASE District-
Vaishali

1. RAM KISHUN MAHTO @ LAKKAR MAHTO SON OF RAM CHANDRA MAHTO Resident of Village - Chevkiya, P.S.- Gangabridge, Distt.- Vaishali.
2. Lakshaminiya Devi W/o Ram Kishun Mahto Resident of Village - Chevkiya, P.S.- Gangabridge, Distt.- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Narayan Mahto Son of Late Machchu Mahto Resident of Village - Tersiya, P.S.- Gangabridge, Distt.- Vaishali.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 59851 of 2021

Arising Out of PS. Case No.-457 Year-2019 Thana- MUNGER COMPLAINT CASE District-
Munger

1. UMESH PRASAD YADAV @ UMESH YADAV Son of Sri Ram Swarup Yadav Resident of Village - Koyalo, P.S. - Dharahara, District - Munger (Bihar).
2. Anup Lal Yadav @ Anup Lal Kumar Son of Ram Swarup Yadav Resident of Village - Koyalo, P.S. - Dharahara, District - Munger (Bihar).
3. Manohar Kumar @ Manohar Yadav Son of Gopal Yadav Resident of Village - Koyalo, P.S. - Dharahara, District - Munger (Bihar).
4. Asharfi Yadav Son of Ram Swarup Yadav Resident of Village - Koyalo, P.S. - Dharahara, District - Munger (Bihar).
5. Anandi Yadav Son of Shiv Nandan Yadav Resident of Village - Koyalo, P.S. - Dharahara, District - Munger (Bihar).
6. Baisakhi Manjhi Son of Durga Manjhi Resident of Village - Koyalo, P.S. - Dharahara, District - Munger (Bihar).
7. Gopal Yadav Son of Ram Swarup Yadav Resident of Village - Koyalo, P.S. -



Dharahara, District - Munger (Bihar).

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 60208 of 2021

Arising Out of PS. Case No.-451 Year-2019 Thana- PATNA COMPLAINT CASE District- Patna

SHANTI DEVI W/o Vijay Kewat R/o Mohalla- Pipra, P.S.- Ram Krishna Nagar, Patna, District- Patna

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Kedar Kewat S/o Late Rameshwar Kewat R/o village- Rampur, P.S.- Shoshwari, District- Patna

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 60849 of 2021

Arising Out of PS. Case No.-1925 Year-2019 Thana- BEGUSARAI COMPLAINT CASE District- Begusarai

DILIP CHAWLA Son of Sri Mohan Chawla Resident of AC26, Abanindra Bithi, City Center, Durgapur Municipal Corporation, Barddhman, West Bengal

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Ashok Kumar Singh Son of Late Ram Swarth Singh Resident of Badalpura, Ward No.3, P.S.- Matihani, District- Begusarai.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 60883 of 2021

Arising Out of PS. Case No.-1528 Year-2019 Thana- COMPLAINT CASE District- Jamui

UMESH MISTRY SON OF LATE MATHURA MISTRY R/O VILLAGE- PACHMAHUA, P.S.- SIKANDRA, DISTRICT- JAMUI

... .. Petitioner/s

Versus



- 1. The State of Bihar
- 2. CHINTA DEVI WIFE OF ANUP RAM R/O VILLAGE- PACHMAHUA, P.S.- SIKANDRA, DISTRICT- JAMUI

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 60902 of 2021

Arising Out of PS. Case No.-581 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- East Champaran

ASHOK RAI @ ASHOK RAY Son of Bhuwan Rai Resident of Village - Mohaddipur, P.S.- Chiraiya, District - East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 61417 of 2021

Arising Out of PS. Case No.-2782 Year-2018 Thana- PATNA COMPLAINT CASE District- Patna

MD. ASAD RAHMAN @ MD. ARSHAD RAHMAN @ MD. ARSHAD @ ASAD RAHMAN S/o Abdul Rahman R/o Mohalla- Bank Road, Jaidpur Complex, P.S.- Gandhi Maidan, District- Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 61491 of 2021

Arising Out of PS. Case No.-333 Year-2020 Thana- PATNA COMPLAINT CASE District- Patna

- 1. JAI JAI RAM SINGH @ JAI RAM SINGH S/o LATE RAMAUDIT SINGH R/o VILLAGE-RATGAON, P.S-TEGHRA, DISTRICT-BEGUSARAI.
- 2. USHA DEVI W/o JAI JAI RAM SINGH @ JAI RAM SINGH R/o VILLAGE-RATGAON, P.S-TEGHRA, DISTRICT-BEGUSARAI.
- 3. SUNIL KUMAR S/o JAI JAI RAM SINGH @ JAI RAM SINGH R/o VILLAGE-RATGAON, P.S-TEGHRA, DISTRICT-BEGUSARAI.

... .. Petitioner/s

Versus



1. THE STATE OF BIHAR
2. KHUSBOO KUMARI W/o SUSHIL KUMAR R/o VILLAGE-RATGAON, P.S-TEGHRA, DISTRICT-BEGUSARAI, PRESENTLY RESIDING AT C/o MANOJ SINGH (FATHER), R/o VILLAGE-EXHANGA, P.S-BELCHI, DISTRICT-PATNA.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 62116 of 2021

Arising Out of PS. Case No.-393 Year-2019 Thana- PATNA COMPLAINT CASE District- Patna

MD. WASIM AKRAM Son of Md. Abdul Rahim Resident of Mohalla- Patel Gali Ekangarsarai Bazar, P.S.- Ekangarsarai, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kashmiri Khatun D/o Md. Nizam Uddin Resident of Railway Station Colony Quarter No. -15, Bakhiarpur, District- Patna.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 63277 of 2021

Arising Out of PS. Case No.-474 Year-2020 Thana- PATNA COMPLAINT CASE District- Patna

NIRAJ SHAHI @ NIRAJ KUMAR SHAHI S/o- Umesh Shahi Resident of Maheshwar Nurshing near, Hajipur, Ward No. 23, P.S. - Hajipur, District - Vaishali, Pin Code -844101.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 65988 of 2021

Arising Out of PS. Case No.-738 Year-2020 Thana- PATNA COMPLAINT CASE District- Patna

NAVIN PRAKASH GUPTA Son of Sri Gopal Prasad Resident of Saidpura, Motichowk, P.O. and P.S.- Khagaul, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar



2. Vishunu Kumar Soni Son of Late Raghunath Prasad Resident of Jai Ram Bazar, Khagarul P.O. and P.S.- Khagaul, District - Patna.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 66004 of 2021

Arising Out of PS. Case No.-654 Year-2018 Thana- COMPLAINT CASE District- Jamui

KAILASH TANTI @ KAILU TANTI S/o Puna Tanti R/o village- Dhanrah (Dhanway), P.S.- Chanan, District- Lakhisarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nitu Devi @ Nitu Kumari W/o Bajrangi Tanti R/o village- Dhanrah (Dhanway), P.S.- Chanan, District- Lakhisarai, at present R/o village- Husainiganj, P.S.- Sikandara, District- Jamui

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 67297 of 2021

Arising Out of PS. Case No.-549 Year-2020 Thana- KATIHAR COMPLAINT CASE District- Katihar

MD. AWES Son of Fazlur Rahman Resident of Village - Mahila, P.S. - Azamnagar, District - Katihar.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Jahan Ara Parween Daughter of Md. Amin Hussain Resident of Village - Kanki Basantpur, P.S. - Chakuliya, District - Uttar Dinajpur (West Bengal).

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 67302 of 2021

Arising Out of PS. Case No.-856 Year-2016 Thana- BHAGALPUR COMPLAINT CASE District- Bhagalpur

1. MD. MOJIB Son of Late Alauddin Resident of Village- Harna, P.S.- Rajoun, District- Banka.
2. Bibi Rijwana Wife of Md. Mojib Resident of Village- Harna, P.S.- Rajoun, District- Banka.
3. Md. Wasi Alam Son of Md. Mojib Resident of Village- Harna, P.S.- Rajoun, District- Banka.



... .. Petitioner/s
Versus
The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 68341 of 2021

Arising Out of PS. Case No.-1390 Year-2020 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

RAHUL PASWAN Son of Pirtu Paswan Resident of Village - Dharampur
Amirganj, Ward No.- 4, P.S.- Samastipur Town, District - Samastipur.

... .. Petitioner/s
Versus
1. The State of Bihar
2. Babloo Paswan Son of Baidhnath Paswan Resident of Village - Dharampur
Amirganj, Ward No.- 4, P.S.- Samastipur Town, District - Samastipur.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 69148 of 2021

Arising Out of PS. Case No.-725 Year-2017 Thana- SARAN COMPLAINT CASE District-
Saran

RANJAN RAI @ KARIMAN RAI S/o- Late Hari Kishore Yadav R/o- Village
- Lahenji, P.S.- Basantpur, District - Siwan.

... .. Petitioner/s
Versus
1. THE STATE OF BIHAR
2. Rekha Devi W/o- Ranjan Kumar @ Kariman, D/o- Upendra Yadav At
Present R/o- Village - Rahampur, P.S. - Ekma, District - Chapra, Saran.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 69551 of 2021

Arising Out of PS. Case No.-5 Year-2021 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

GUDDU MALI S/o Yogendra Mali R/o village- Deepahi, P.S.- Chiraiya,
District- East Champaran

... .. Petitioner/s
Versus
1. The State of Bihar



2. Panna Devi W/o Guddu Mali R/o village- Deepahi, P.S.- Chiraiya, District- East Champaran, At present R/o village- Kadamwa, P.S.- Ghorasahan, District- East Champaran

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 69988 of 2021

Arising Out of PS. Case No.-33 Year-2021 Thana- SITAMARHI COMPLAINT CASE
District- Sitamarhi

SUSHIL MAHTO SON OF YOGENDRA MAHTO Resident of Village - Bhaluaha, P.S.- Sonbarsa, Distt.- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar
2. BIBHA DEVI W/o Sushil Mahto, D/o Nawal Kishor Panjiyar Resident of Village - Bhaluaha, P.S.- Sonbarsa, Dist.- Sitamarhi, at present Resident of Village - Sahasram, P.S.- Parihar, Distt.- Sitamarhi.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 70357 of 2021

Arising Out of PS. Case No.-72 Year-2019 Thana- JEHANABAD COMPLAINT CASE
District- Jehanabad

JITENDRA KUMAR @ JITENDRA SINGH Son of Vinod Singh Resident of Village - Koriam , P.O.- Bara-Koriam, P.s.- Arwal, Distt.- Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sangeeta Devi D/o Ramanand Singh Resident of Village - P.S. and P.O.- Rampur Chauram, Distt.- Arwal.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 70775 of 2021

Arising Out of PS. Case No.-212 Year-2018 Thana- KHAGARIA COMPALINT CASE
District- Khagaria

BIRENDRA RAM @ BIRENDRA KUMAR Son of Late Lakhi Ram Resident of Village - Mahadeo Math, P.S.- Salkhua, Kapariya, Distt.- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar



2. Manchan Kumari W/o Birendra Ram , D/o Jhakas Ram At Present Resident of Village - Sanhoili, P.S.- Chitraguptanagar, Distt.- Khagaria.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 71101 of 2021

Arising Out of PS. Case No.-371 Year-2020 Thana- ROHTAS COMPLAINT CASE District-
Rohtas

RATNESH KUMAR Son of Suryadeo Singh Resident of village - Deodhiya,
P.S. - Rajpur, District - Buxar.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Sarita Kumari D/o- Deo Raj Singh At present resident of village - Khanita, P.O. - Lilwachh, P.S. - Dinara, District - Rohtas. Permanent address - Sarita Kumari, W/o- Ratnesh Kumar Resident of village - Deodhiya, P.S. - Rajpur, District - Buxar.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 98 of 2022

Arising Out of PS. Case No.-424 Year-2020 Thana- BHOJPUR COMPLAINT CASE District-
Bhojpur

KANHAIYA GUPTA Son of Ramesh Gupta Resident of M.C.F.C.- 86, East Chawala Colony Near Bausano Devi Mandir, Ballabhgarh, Police Station- Ballabhgarh in the district of Faridabad, Haryana.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Puja Kumari @ Puja Gupta Wife of Kanhaiya Gupta and Daughter of Suresh Sah At present resident of Mohalla- Begusmpur, Police Station - Ara Town in the district of Bhojpur.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 106 of 2022

Arising Out of PS. Case No.-353 Year-2020 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

RAJIV KUMAR @ RAJIV KUMAR SAH LATE VINOD KASERA ALIAS BINO SAH Resident of Moh.-Mungeriganj, Ward No.-33, P.S.-Begusarai, District-Begusarai.



... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Ruby Kumari Wife of Rajiv Kumar @ Rajiv Kumar Sah, Daughter of Late Asharfi Sah Resident of Moh.-Mahabir Asthan, Nimtalla, Ward No.-14, Rosera, P.S.-Rosera, Distt.-Samastipur.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 125 of 2022

Arising Out of PS. Case No.-447 Year-2020 Thana- ROHTAS COMPLAINT CASE District- Rohtas

KHESAL AHMAD S/o Md. Kamaluddin R/o Ward No. 2, Meer Nasir, Nasriganj, P.S.- P.S.- Nasriganj, District- Rohtas

... .. Petitioner/s

Versus

1. The State of Bihar
2. Israt Jahan D/o Hafij Masood Alam R/o Ward No. 2, Meer Nasir, Nasriganj, P.S.- P.S.- Nasraiganj, District- Rohtas

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 537 of 2022

Arising Out of PS. Case No.-1677 Year-2017 Thana- SITAMARHI COMPLAINT CASE District- Sitamarhi

1. MISHRILAL SAH Son of Narayan Sah Resident of Village- Laruaari, P.S.- Parihar, District- Sitamarhi.
2. Shyam Kumar Son of Mishrilal Sah Resident of Village- Laruaari, P.S.- Parihar, District- Sitamarhi.
3. Pramod Kumar Son of Mishrilal Sah Resident of Village- Laruaari, P.S.- Parihar, District- Sitamarhi.
4. Pappu Kumar Son of Mishrilal Sah Resident of Village- Laruaari, P.S.- Parihar, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Sankar Sah Son of Shanker Sah Resident of Village- Bariyarpur, P.S.- Sitamarhi, District- Sitamarhi.

... .. Opposite Party/s



with
CRIMINAL MISCELLANEOUS No. 539 of 2022

Arising Out of PS. Case No.-720 Year-2019 Thana- MADHEPURA COMPALINT CASE
District- Madhepura

CHANDRA KISHOR SHARMA @ CHAND KISHOR SHARMA SON OF
KALAR SHARMA RESIDENT OF VILLAGE- POKHARIYA, WARD NO
01, P.S- SRINAGAR, DIST- MADHEPURA

... .. Petitioner/s

Versus

1. The State of Bihar
2. NIKA DEVI W/O CHANDRA KISHOR SHARMA @ CHAND KISHOR SHARMA D/O JANARDAN SHARMA RESIDENT OF VILLAGE- POKHARIYA, WARD NO 1, P.S- SRINAGAR, DIST-MADHEPURA AND AT PRESENT RESIDENT OF VILLAGE- KATAHARA, WARD NO 10 P.S- CHHATAPUR, DIST- SUPAUL

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 877 of 2022

Arising Out of PS. Case No.-1519 Year-2018 Thana- GAYA COMPLAINT CASE District-
Gaya

DHANANJAY KUMAR SON OF LATE HARDEO SINGH RESIDENT OF
VILLAGE- DAYA BIGHA, POST- JAGPURA, P.S- MAKHDUMPUR, DIST-
JEHANABAD

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. PRIYANKA KUMAR W/O DHANANJAY KUMAR D/O NAWAL SINGH RESIDENT OF VILLAGE- DAYA BIGHA, POST- JAGPURA, P.S- MAKHDUMPUR, DIST- JEHANABAD AT PRESENT RESIDENT OF VILLAGE- MAU, POST JAGPURA, P.S- TEKARI, DIST- GAYA

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 2187 of 2022

Arising Out of PS. Case No.-470 Year-2019 Thana- BHABHU(KAIMUR) COMPLAIN C
District- Kaimur (Bhabua)

FARID KHAN @ FARID SHEKH S/o Jamarati Khan R/o Village Piya, P.S.
Sonhan, District Kaimur at Bhabu at present R/o Chhwani Muhalla, WARD No.
10, P.S. Bhabua, District Kaimur at Bhabua.

... .. Petitioner/s

Versus



- 1. The State of Bihar
- 2. Smt. Puspa Devi Wife of Late Ramanand Pandey R/o Village Mahuari, P.O. Upari, P.S. Ramgarh, District Kaimur at Bhabua, At present reside at Ward No. 9, Bhabua Town, P.S. Bhabua, District - Kaimura at Bhabua.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 2521 of 2022

Arising Out of PS. Case No.-897 Year-2018 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

DEWENDRA SINGH @ DEVENDRA SINGH S/o Late Jagdish Singh
Resident of Village - Karamdih, P.S. - Barun, District - Aurangabad.

... .. Petitioner/s

Versus

- 1. THE STATE OF BIHAR
- 2. ABDUL GAFUR S/o Fateh Mahmad Resident of Village- Saharsa, P.S. - Mali, District - Aurangabad.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 2976 of 2022

Arising Out of PS. Case No.-406 Year-2019 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

- 1. CHITRANJAN KUMAR @ CHITRANJAN MAHTO Son of Ram Babu Mahto Resident of Village- Ahiyari, P.S.- Kamtoul, District- Darbhanga.
- 2. Arjun Mahto @ Arjun Kumar Son of Ram Babu Mahto Resident of Village- Ahiyari, P.S.- Kamtaul, District- Darbhanga.

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Priti Kumari Daughter of Surendra Bhagar Resident of Village- Chahuta, P.S.- Bisfi, District- Madhubni.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 3010 of 2022

Arising Out of PS. Case No.-167 Year-2016 Thana- PATNA COMPLAINT CASE District- Patna

MD. RAKIB UDDIN Son of Md. Namim Uddin @ Md. Naim Uddin Resident of Village - Mamarkhabad- English, P.S. - Pandarak, District - Patna.



... .. Petitioner/s
Versus
The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 3196 of 2022

Arising Out of PS. Case No.-222 Year-2020 Thana- BHOJPUR COMPLAINT CASE District-
Bhojpur

SATISH KUMAR @ SATISH KUMAR SINGH Son of Jagar Nath Singh
Resident of Village - Masarh, P.s.- Udwant Nagar, Distt.- Bhojpur.

... .. Petitioner/s
Versus
1. The State of Bihar
2. Niharika Kumari W/o Satish Kumar Singh @ Satish Kumar , D/o Shyam
Kumar Munnur Resident of Village - Amrai Nawada, P.O.- Amrai Nawada,
P.S.- Bihiya, Distt.- Bhojpur.

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 4256 of 2022

Arising Out of PS. Case No.-677 Year-2020 Thana- BHABHU(KAIMUR) COMPLAIN C
District- Kaimur (Bhabua)

1. SHESH NATH SAH S/o Umashankar Sah R/o village- Seni Sarai, P.S.-
Ramgarh, Distt.- Kaimur (Bhabua)
2. Jokhan Sah S/o Late Banshi Sah R/o village- Seni Sarai, P.S.- Ramgarh,
Distt.- Kaimur (Bhabua)
3. Raju Sah S/o Umashankar Sah R/o village- Seni Sarai, P.S.- Ramgarh,
Distt.- Kaimur (Bhabua)
4. Umashankar Sah S/o Late Banshi Sah R/o village- Seni Sarai, P.S.-
Ramgarh, Distt.- Kaimur (Bhabua)
5. Mannu Sah S/o Shyam Bihari Sah R/o village- Seni Sarai, P.S.- Ramgarh,
Distt.- Kaimur (Bhabua)
6. Arvind Sah S/o Shyam Bihari Sah R/o village- Seni Sarai, P.S.- Ramgarh,
Distt.- Kaimur (Bhabua)
7. Golu Sah S/o Kamla Sah R/o village- Seni Sarai, P.S.- Ramgarh, Distt.-
Kaimur (Bhabua)
8. Shyam Bihari Sah S/o Umashankar Sah R/o village- Seni Sarai, P.S.-
Ramgarh, Distt.- Kaimur (Bhabua)
9. Soni Kumari D/o Shesh Nath Sah R/o village- Seni Sarai, P.S.- Ramgarh,
Distt.- Kaimur (Bhabua)



... .. Petitioner/s

Versus

1. The State of Bihar
2. Puja Devi W/o Rakesh Kumar Gupta R/o village- Seni Sarai, P.S.- Ramgarh, Distt.- Kaimur at Bhabua

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 4828 of 2022

Arising Out of PS. Case No.-58 Year-2021 Thana- SITAMARHI COMPLAINT CASE
District- Sitamarhi

1. RAM EKBAL SINGH SON OF LATE PURAN SINGH @ TULSI SINGH RESIDENT OF VILLAGE- BALUA, WARD NO. 01, P.O. SIRAULI, P.S.- RIGA, DISTRICT- SITAMARHI
3. DEVENDRA SINGH SON OF RAM EKBAL SINGH RESIDENT OF VILLAGE- BALUA, WARD NO. 01, P.O. SIRAULI, P.S.- RIGA, DISTRICT- SITAMARHI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 4902 of 2022

Arising Out of PS. Case No.-1765 Year-2020 Thana- SARAN COMPLAINT CASE District- Saran

1. JAINATH RAWAT S/o Late Jamuna Rawat Resident of Village - Bangali Pattee, P.S. - Sahajitpur, District - saran at Chapra.
2. Bhagwat Rawat S/o- Jainath Rawat Resident of Village - Bangali Pattee, P.S. - Sahajitpur, District - saran at Chapra.
3. Guddu Kumar S/o Sheo Nath Rawat Resident of Village - Bangali Pattee, P.S. - Sahajitpur, District - saran at Chapra.
4. Rinku Kumar Sah @ Rinku Kumar @ Tinku Kumar S/o Jhagru Sah Resident of Village - Bangali Pattee, P.S. - Sahajitpur, District - saran at Chapra.
5. Uma Rawat S/o- Sheo Charan Rawat Resident of Village - Bangali Pattee, P.S. - Sahajitpur, District - saran at Chapra.
6. Sobhnath Rawat S/o- Jainath Rawat @ Jainarayan Rawat Resident of Village - Bangali Pattee, P.S. - Sahajitpur, District - saran at Chapra.
7. Dil Kumar S/o- Sheonath Rawat Resident of Village - Bangali Pattee, P.S. - Sahajitpur, District - saran at Chapra.
8. Sahejan Rawat S/o- Sheonath Rawat Resident of Village - Bangali Pattee,



P.S. - Sahajitpur, District - saran at Chapra.

9. Munna Rawat S/o- Sheonath Rawat Resident of Village - Bangali Pattee, P.S. - Sahajitpur, District - saran at Chapra.
10. Sandeep Kumar S/o - Sheonath Rawat Resident of Village - Bangali Pattee, P.S. - Sahajitpur, District - saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Chandrawati Devi W/o- Rambalak Rawat Resident of Village - Bangali Pattee, P.S. - Sahajitpur, District - saran at Chapra.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 4934 of 2022

Arising Out of PS. Case No.-1709 Year-2019 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

MANOJ KUMAR S/o Late Naresh Pajiyara R/o village- Jagdishpur, District- Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Babulal Sah S/o Late Munilal Sah Resident of Jagdishpur, P.O. and P.S.- Jagdishpur, District- Bhagalpur

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 5340 of 2022

Arising Out of PS. Case No.-1628 Year-2018 Thana- COMPLAINT CASE District- Araria

1. MD. MASKUR @ MASKUR ALAM Son of - Late Khurshid Alam Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.
2. Md Faiyaz Aalam @ Md Faiyaz Alam Son of - Late Khurshid Alam Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.
3. Md Aaftab Aalam @ Aftab Son of - Late Khurshid Alam Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.
4. Md Mumtaz Alam @ Mumtaz Alam Son of Late Khurshid Alam Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.
5. Bibi Sanowar Khatoon @ Bibi Sanowar Wife of- Nayeemuddin, D/o Late Khurshid Alam Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.
6. Bibi Rizwana Khatoon Wife of - Ashfaque Alam, D/o- Late Khurshid Alam Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.



7. Bibi Aafsana Wife of - Akhalaque, D/o- Late Khurshid Alam Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar

2. Bibi Zinat Perween Wife of - Md Masud Alam Resident of Village- Malharia, P.S.- Mahalgaon, District- Araria.

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 19124 of 2014)

For the Petitioner/s : Mr. Suman Kumar Jha, Advocate

For the Opposite Party/s : Mr. Md. Matloob Rab, APP

(In CRIMINAL MISCELLANEOUS No. 20616 of 2014)

For the Petitioner/s : Mr. Sanjeev Ranjan, Advocate

For the Opposite Party/s : Mr. Parmeshwar Mehta, APP

(In CRIMINAL MISCELLANEOUS No. 21866 of 2014)

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Advocate

For the Opposite Party/s : Mr. Ram Chandra Singh App

(In CRIMINAL MISCELLANEOUS No. 38303 of 2014)

For the Petitioner/s : Mr. Chandan, Advocate

For the Opposite Party/s : Mr. S. Ehteshamuddin, APP

(In CRIMINAL MISCELLANEOUS No. 55537 of 2018)

For the Petitioner/s : Mr. Arvind Kumar Sharma, Advocate

For the Opposite Party/s : Mr. Sri Kumar Virendra Narayan, APP

(In CRIMINAL MISCELLANEOUS No. 64211 of 2018)

For the Petitioner/s : Mr. Anil Kumar, Advocate

For the Opposite Party/s : Mr. Sri Kalyan Shankar, APP

(In CRIMINAL MISCELLANEOUS No. 44395 of 2019)

For the Petitioner/s : Mr. Dilip Kumar Tondon, Advocate

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

(In CRIMINAL MISCELLANEOUS No. 57376 of 2019)

For the Petitioner/s : Mr. Dilip Kumar Tondon, Advocate

For the Opposite Party/s : Mr. Ashok Kumar, APP

(In CRIMINAL MISCELLANEOUS No. 59044 of 2019)

For the Petitioner/s : Mr. Sanjay Kumar Sharma, Advocate

For the Opposite Party/s : Mr. Manoj Kumar, APP

(In CRIMINAL MISCELLANEOUS No. 59804 of 2019)

For the Petitioner/s : Mr. Brij Nandad Prasad, Advocate

For the Opposite Party/s : Mr. Chandra Sen Prasad Singh, APP

(In CRIMINAL MISCELLANEOUS No. 60033 of 2019)

For the Petitioner/s : Mr. Md. Mushtaque Alam, Advocate

For the Opposite Party/s : Ms. Dr. Indihar Kumari, APP

(In CRIMINAL MISCELLANEOUS No. 61405 of 2019)

For the Petitioner/s : Mr. Uday Narayan Singh, Advocate

For the Opposite Party/s : Mr. Narendra Kumar Singh, APP

(In CRIMINAL MISCELLANEOUS No. 63408 of 2019)

For the Petitioner/s : Mr. Sanjay Mandal, Advocate

For the Opposite Party/s : Mr. Ansar Ul Haque, APP

(In CRIMINAL MISCELLANEOUS No. 76448 of 2019)

For the Petitioner/s : Mr. Sandip Kumar Gautam, Advocate

For the Opposite Party/s : Mr. Nand Kumar, APP

(In CRIMINAL MISCELLANEOUS No. 2321 of 2020)

For the Petitioner/s : Mr. Ritesh Kumar Narain Singh, Advocate



For the Opposite Party/s : Ms. Sangeeta Sharma, APP
(In CRIMINAL MISCELLANEOUS No. 3114 of 2020)
For the Petitioner/s : Mr. Rajeev Ranjan No.Ii, Advocate
For the Opposite Party/s : Mr. Rajendra Prasad Nat, APP
(In CRIMINAL MISCELLANEOUS No. 6457 of 2020)
For the Petitioner/s : Mr. Dharmesh Kumar, Advocate
For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP
(In CRIMINAL MISCELLANEOUS No. 6461 of 2020)
For the Petitioner/s : Mr. Mohammad Sufyan, Advocate
For the Opposite Party/s : Mr. Md. Iftekhar Mahmood, APP
(In CRIMINAL MISCELLANEOUS No. 8673 of 2020)
For the Petitioner/s : Mr. Shakil Ahmad Khan, Advocate
For the Opposite Party/s : Mr. Md. Nazir Ansari, APP
(In CRIMINAL MISCELLANEOUS No. 9470 of 2020)
For the Petitioner/s : Mr. Indu Bhushan, Advocate
For the Opposite Party/s : Mr. Md. Anbzarul Haque Sahara, APP
(In CRIMINAL MISCELLANEOUS No. 2611 of 2021)
For the Petitioner/s : Mr. Vijay Shankar Shrivastava, Advocate
For the Opposite Party/s : Mr. A.G
(In CRIMINAL MISCELLANEOUS No. 2634 of 2021)
For the Petitioner/s : Mr. Nafisuzzoha, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 2657 of 2021)
For the Petitioner/s : Mr. Alok Kumar Alok, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 10398 of 2021)
For the Petitioner/s : Mr. Kumod Kumar Shrivastaw, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 11113 of 2021)
For the Petitioner/s : Mr. Kumod Kumar Shrivastaw, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 11326 of 2021)
For the Petitioner/s : Mr. Aditya Nath Jha, Advocate
For the Opposite Party/s : Mr. Mithlesh Kumar Khare, APP
(In CRIMINAL MISCELLANEOUS No. 12482 of 2021)
For the Petitioner/s : Mr. Ashok Kumar Kashyap, Advocate
For the Opposite Party/s : Mr. Md. Fahimuddin, APP
(In CRIMINAL MISCELLANEOUS No. 12671 of 2021)
For the Petitioner/s : Mr. Pushpendra Kumar Singh, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 13651 of 2021)
For the Petitioner/s : Mr. Krishna Kumar Yadav, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 15208 of 2021)
For the Petitioner/s : Mr. Shashi Shekhar Sharma, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 15621 of 2021)
For the Petitioner/s : Mr. Ramchandra Sahni, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 17720 of 2021)
For the Petitioner/s : Mr. Abhay Kumar, Advocate
For the Opposite Party/s : Mr. Kumar Ranjit Ranjan, APP
(In CRIMINAL MISCELLANEOUS No. 18587 of 2021)
For the Petitioner/s : Mr. Prashant Kumar, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 19628 of 2021)
For the Petitioner/s : Mr. Rana Ishwar Chandra, Advocate
For the Opposite Party/s : Mr. Rana Randhir Singh, APP



(In CRIMINAL MISCELLANEOUS No. 21643 of 2021)
For the Petitioner/s : Mr. Md. Najmul Hodda, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 22755 of 2021)
For the Petitioner/s : Mr. Mukund Mohan Jha, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 24784 of 2021)
For the Petitioner/s : Mr. Chandra Shekhar Singh, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 25495 of 2021)
For the Petitioner/s : Mr. Piyush Anand, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 38758 of 2021)
For the Petitioner/s : Mr. Pawan Kumar Singh, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 43186 of 2021)
For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 45124 of 2021)
For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
Ms. Vaishnavi Singh, Advocate
Mr. Ritwik Thakur, Advocate
Mr. Shivam, Advocate
For the Opposite Party/s : Mr. Bharat Bhushan, APP
For the O.P. No. 2 : Mr. Sudhir Kumar Bijuria, Advocate
(In CRIMINAL MISCELLANEOUS No. 45846 of 2021)
For the Petitioner/s : Mr. Udai Shankar Singh, Advocate
For the Opposite Party/s : Mr. Zainul Abedin, APP
(In CRIMINAL MISCELLANEOUS No. 47556 of 2021)
For the Petitioner/s : Mr. Ratanakar Jha, Advocate
For the Opposite Party/s : Mr. Kumar Ranjit Ranjan, APP
(In CRIMINAL MISCELLANEOUS No. 48337 of 2021)
For the Petitioner/s : Mr. Anil Prasad Singh, Advocate
For the Opposite Party/s : Mr. Pranav Kumar, APP
(In CRIMINAL MISCELLANEOUS No. 49793 of 2021)
For the Petitioner/s : Mr. Amit Narayan, Advocate
Mr. Jeetendra Narayan, Advocate
For the Opposite Party/s : Mr. Akshay Lal Pandit, APP
(In CRIMINAL MISCELLANEOUS No. 50204 of 2021)
For the Petitioner/s : Ms. Rina Sinha, Advocate
For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP
(In CRIMINAL MISCELLANEOUS No. 50381 of 2021)
For the Petitioner/s : Mr. Rajeev Nayan, Advocate
For the Opposite Party/s : Mr. Pawan Kumar Chaurasia, APP
(In CRIMINAL MISCELLANEOUS No. 51145 of 2021)
For the Petitioner/s : Ms. Vagisha Pragya Vacaknavi, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 51463 of 2021)
For the Petitioner/s : Mr. Sunil Kumar No.III, Advocate
For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP
(In CRIMINAL MISCELLANEOUS No. 51465 of 2021)
For the Petitioner/s : Mr. Anil Kumar, Advocate
For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP
(In CRIMINAL MISCELLANEOUS No. 52168 of 2021)
For the Petitioner/s : Mr. Kundan Kumar Singh, Advocate
For the Opposite Party/s : Mr. Brajendra Nath Pandey, APP
(In CRIMINAL MISCELLANEOUS No. 52775 of 2021)
For the Petitioner/s : Mr. Pawan Kumar Singh, Advocate



For the Opposite Party/s : Ms. Meena Singh, APP
(In CRIMINAL MISCELLANEOUS No. 53299 of 2021)
For the Petitioner/s : Mr. Kundan Rathore, Advocate
For the Opposite Party/s : Mr. Vinod Shanker Modi, APP
(In CRIMINAL MISCELLANEOUS No. 54206 of 2021)
For the Petitioner/s : Mr. S. Jamil Akhtar, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP
(In CRIMINAL MISCELLANEOUS No. 54667 of 2021)
For the Petitioner/s : Mr. Pramod Kumar, Advocate
For the Opposite Party/s : Ms. Madhuri Lata, APP
(In CRIMINAL MISCELLANEOUS No. 56315 of 2021)
For the Petitioner/s : Ms. Priyanka Singh, Advocate
For the Opposite Party/s : Mr. Ajit Kumar, APP
(In CRIMINAL MISCELLANEOUS No. 57615 of 2021)
For the Petitioner/s : Mr. Milind Kumar Mishra, Advocate
For the Opposite Party/s : Mr. Amitesh Kumar, APP
(In CRIMINAL MISCELLANEOUS No. 57654 of 2021)
For the Petitioner/s : Mr. Md Fazle Karim, Advocate
For the Opposite Party/s : Ms. Renu Kumari, APP
(In CRIMINAL MISCELLANEOUS No. 58503 of 2021)
For the Petitioner/s : Mr. Vibhakar Kumar, Advocate
For the Opposite Party/s : Mr. Uday Chand Prasad, APP
(In CRIMINAL MISCELLANEOUS No. 58924 of 2021)
For the Petitioner/s : Mr. Madhurendra Kumar, Advocate
For the Opposite Party/s : Mr. Amit Kumar Rakesh, APP
(In CRIMINAL MISCELLANEOUS No. 59713 of 2021)
For the Petitioner/s : Mr. Binay Kumar, Advocate
For the Opposite Party/s : Ms. Indu Kumari Srivastava, APP
(In CRIMINAL MISCELLANEOUS No. 59851 of 2021)
For the Petitioner/s : Mr. Ranjeet Tiwary, Advocate
For the Opposite Party/s : Mr. Bharat Lal, APP
(In CRIMINAL MISCELLANEOUS No. 60208 of 2021)
For the Petitioner/s : Mr. Bauye Jee Jha (B.J. Jha), Advocate
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP
(In CRIMINAL MISCELLANEOUS No. 60849 of 2021)
For the Petitioner/s : Mr. Rajan Ghoshra, Advocate
For the Opposite Party/s : Mr. Murli Dhar, APP
(In CRIMINAL MISCELLANEOUS No. 60883 of 2021)
For the Petitioner/s : Mr. Umesh Prasad, Advocate
For the Opposite Party/s : Mr. Nagendra Prasad, APP
(In CRIMINAL MISCELLANEOUS No. 60902 of 2021)
For the Petitioner/s : Mr. Karandeep Kumar, Advocate
For the Opposite Party/s : Mr. Kanhaiya Kishore (App100)
(In CRIMINAL MISCELLANEOUS No. 61417 of 2021)
For the Petitioner/s : Mr. Awadhesh Kumar Mishra, Advocate
For the Opposite Party/s : Mr. Lalan Kumar, APP
(In CRIMINAL MISCELLANEOUS No. 61491 of 2021)
For the Petitioner/s : Mr. Uma Shankar Prasad Singh, Advocate
For the Opposite Party/s : Mr. Ajay Kumar Jha, APP
(In CRIMINAL MISCELLANEOUS No. 62116 of 2021)
For the Petitioner/s : Mr. Awadhesh Prasad Sinha, Advocate
For the Opposite Party/s : Mr. Ganesh Prasad Singh, APP
(In CRIMINAL MISCELLANEOUS No. 63277 of 2021)
For the Petitioner/s : Ms. Prakritita Sharma, Advocate
For the Opposite Party/s : Mr. Ram Sumiran Rai, APP
(In CRIMINAL MISCELLANEOUS No. 65988 of 2021)
For the Petitioner/s : Mr. Saroj Kumar, Advocate
For the Opposite Party/s : Mr. Ram Anurag Singh, APP



(In CRIMINAL MISCELLANEOUS No. 66004 of 2021)
For the Petitioner/s : Mr. Amrendra Kumar, Advocate
For the Opposite Party/s : Mr. Akhileshwar Dayal, APP
(In CRIMINAL MISCELLANEOUS No. 67297 of 2021)
For the Petitioner/s : Mr. Nafisuzzoha, Advocate
For the Opposite Party/s : Mr. A.G
(In CRIMINAL MISCELLANEOUS No. 67302 of 2021)
For the Petitioner/s : Mr. Dhananjay Kumar Pandey, Advocate
For the Opposite Party/s : Mr. Bal Mukund Prasad Sinha, APP
(In CRIMINAL MISCELLANEOUS No. 68341 of 2021)
For the Petitioner/s : Mr. Naresh Chandra Verma, Advocate
For the Opposite Party/s : Mr. Harendra Prasad, APP
(In CRIMINAL MISCELLANEOUS No. 69148 of 2021)
For the Petitioner/s : Mr. Alok Kumar Alok, Advocate
For the Opposite Party/s : Mr. Lakshmi Kant Sharma, APP
(In CRIMINAL MISCELLANEOUS No. 69551 of 2021)
For the Petitioner/s : Mr. Brajesh Kumar Singh, Advocate
For the Opposite Party/s : Mr. Suresh Prasad Singh, APP
(In CRIMINAL MISCELLANEOUS No. 69988 of 2021)
For the Petitioner/s : Mr. Alok Kumar Alok, Advocate
For the Opposite Party/s : Mr. Rajesh Kumar, APP
(In CRIMINAL MISCELLANEOUS No. 70357 of 2021)
For the Petitioner/s : Mr. Vinod Kumar, Advocate
For the Opposite Party/s : Ms. Renu Kumari, APP
(In CRIMINAL MISCELLANEOUS No. 70775 of 2021)
For the Petitioner/s : Mr. Mukesh Kumar, Advocate
For the Opposite Party/s : Ms. Anita Kumari, APP
(In CRIMINAL MISCELLANEOUS No. 71101 of 2021)
For the Petitioner/s : Mr. Anil Kumar Singh, Advocate
For the Opposite Party/s : Mr. Satya Nand Shukla, APP
(In CRIMINAL MISCELLANEOUS No. 98 of 2022)
For the Petitioner/s : Mr. Sunil Kumar, Advocate
For the Opposite Party/s : Mr. Md. Shakir Ahmad, APP
(In CRIMINAL MISCELLANEOUS No. 106 of 2022)
For the Petitioner/s : Mr. Binod Kumar Sinha, Advocate
For the Opposite Party/s : Ms. Pronoti Singh, APP
(In CRIMINAL MISCELLANEOUS No. 125 of 2022)
For the Petitioner/s : Mr. Sunil Kumar, Advocate
For the Opposite Party/s : Mr. Syed Mojibur Rahman, APP
(In CRIMINAL MISCELLANEOUS No. 537 of 2022)
For the Petitioner/s : Mr. Devendra Kumar, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 539 of 2022)
For the Petitioner/s : Mr. Gopal Kumar Jha, Advocate
For the Opposite Party/s : Mr. Khurshid Anwar, APP
(In CRIMINAL MISCELLANEOUS No. 877 of 2022)
For the Petitioner/s : Mr. Prithivi Raj Singh, Advocate
For the Opposite Party/s : Mr. Madhura Nand Jha, APP
(In CRIMINAL MISCELLANEOUS No. 2187 of 2022)
For the Petitioner/s : Mr. Tribhuwan Narayan, Advocate
For the Opposite Party/s : Mr. Md. Aslam Ansari, APP
(In CRIMINAL MISCELLANEOUS No. 2521 of 2022)
For the Petitioner/s : Mr. Bhaskar Shankar, Advocate
For the Opposite Party/s : Mr. Akhileshwar Dayal, APP
(In CRIMINAL MISCELLANEOUS No. 2976 of 2022)
For the Petitioner/s : Mr. Ravi Prakash, Advocate
For the Opposite Party/s : Mr. A.G.
(In CRIMINAL MISCELLANEOUS No. 3010 of 2022)



For the Petitioner/s : Mr. Anil Kumar Singh, Advocate
For the Opposite Party/s : Mr. Nirmal Kumar Sinha, APP
(In CRIMINAL MISCELLANEOUS No. 3196 of 2022)
For the Petitioner/s : Mr. Dhramveer, Advocate
For the Opposite Party/s : Mr. Ram Sumiran Rai, APP
(In CRIMINAL MISCELLANEOUS No. 4256 of 2022)
For the Petitioner/s : Mr. Rajesh Kumar Mishra, Advocate
For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP
(In CRIMINAL MISCELLANEOUS No. 4828 of 2022)
For the Petitioner/s : Mr. Ayush Kumar, Advocate
For the Opposite Party/s : Ms. Pushpa Sinha.1, APP
(In CRIMINAL MISCELLANEOUS No. 4902 of 2022)
For the Petitioner/s : Mr. Nawal Kishore Singh, Advocate
For the Opposite Party/s : Mr. Madan Kumar, APP
(In CRIMINAL MISCELLANEOUS No. 4934 of 2022)
For the Petitioner/s : Mr. Praveen Kumar, Advocate
For the Opposite Party/s : Mr. A.G
(In CRIMINAL MISCELLANEOUS No. 5340 of 2022)
For the Petitioner/s : Mr. Md. Ziaul Quamar, Advocate
For the Opposite Party/s : Mr. Umesh Lal Verma, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE HARISH KUMAR
and
HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 12-07-2023

Heard the learned counsel for the parties.

2. A learned Single Judge of Patna High Court, while hearing three separate anticipatory bail applications, in all of which summons were issued to the petitioners in complaint cases, found that three questions needed to be referred to a Full Bench for final determination viz. (1) whether anticipatory bail petition is maintainable at the instance of an accused in a Complaint Case, wherein after inquiry, the court simply issues summons; (2) whether an application under section 438 of



the Code of Criminal Procedure can be entertained by a Special Court exercising the powers of Sessions Court and;
(3) whether a person whose application for anticipatory bail has been rejected by the Court of Sessions has the liberty to move the High Court for the same relief?

3. For framing the aforementioned questions, the learned Single Judge referred to the Constitution Bench judgment of the Supreme Court in ***Gurbaksh Singh Sibbia and Others vs. State of Punjab 1980 (2) SCC 565***, which had declared that the applicant must show that he has reasons to believe that he may be arrested for a non-bailable offence. Such "*reasons to believe*" must be founded on reasonable grounds. Mere fear is not belief. It is not enough for the applicant to show that he has some sort of a vague apprehension that someone is going to make an accusation against him in pursuance of which he may be arrested. The belief of the applicant must be capable of being examined by the Court objectively because it is then alone that the Court can determine whether the apprehension of the applicant is genuine.



4. The learned Single Judge went on to observe that in a complaint case, a person cannot be said to have any apprehension of being arrested till cognizance is taken and if only summons are issued, such apprehensions are rendered non-existent.

5. With respect to the second question *viz.* whether a Special Court exercising the powers of a Sessions Court can entertain an application under Section 438 of the Cr.P.C., the learned Single Judge referred to ***Kamleshwar Singh vs Dharamdeo Singh AIR 1957 Patna 375*** and ***Rajesh Choudhary vs. State of Rajasthan 1987 CriLJournal 411***, in which it was held that the legislature has invested special powers on the High Court and on the Court of Session for exercising jurisdiction under Section 438 of the Cr.P.C. On examining the question from other angles also, the learned Single Judge observed that the position is clear that expression "*Court of Session*" occurring in Section 438 Cr.P.C. means the Court of Session presided over by the Sessions Judge. Though the learned Single Judge noted the majority view of the Full Bench of Patna High Court in Re. ***Sri***



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PLJR 519 that the special judges, having the capability of being appointed as Additional Sessions Judges, have the right to entertain an application under section 438 Cr.P.C. as regards the offences for which they are the original Courts and exercise the powers conferred upon the Magistrates. But relying upon the minority view, the learned Single Judge held that the majority view needs to be re-visited. The legislature has chosen the High Court and the Court of Sessions and not "*Courts of Sessions*" to entertain and decide 438 applications.

6. With respect to the 3rd question viz. whether a person can move the High Court for grant of anticipatory bail in the event of his application having been rejected by the Sessions Court, though he has referred to ***Kusheshwar Prasad Singh vs. State of Bihar 1985 PLJR 247***, which confirms that an accused can file an application under 438 of the Cr.P.C. before the High Court after its rejection by the Sessions Court, but was of the opinion that in view of the concurrent powers given to the High Court and the Sessions Court with respect to anticipatory bails, the accused was to



elect and not repeat the same grounds before a higher Court. This, according to the learned Single Judge, would amount to abusing the process of law and defeating the noble object behind introduction of Section 438 in the Code.

7. With such terms of reference, a full bench had earlier been constituted with different composition but it deferred the matter for the reason of pendency of ***Sushila Agarwal and Others vs. State (NCT of Delhi) and Another (2020) 5 SCC 1*** before a constitution bench of Supreme Court.

8. The issues which were to be answered by the constitution bench in *Sushila Agarwal viz.* (I) "whether the protection granted to a person under Section 438 of the Cr.P.C. should be limited to a fixed period so as to enable the person to surrender before the Trial Court and seek regular bail? and (II) whether the life of an anticipatory bail should end at the time and stage when the accused is summoned by the Court, are totally different from the issues raised by the learned Single Judge here.



9. We, thus, proceed to answer the aforementioned posers.

10. In this endeavour of ours, we have been assisted by Sri Ansul, Sri Rajesh Shukla and Ms. Surya Nilambari as *Amicus* and Dharmesh Kumar, Mr. Manindra Kishore and Mr. Amit Narayan, learned advocates for the petitioners.

11. It would be profitable to note certain background facts relating to the development of the law with respect to anticipatory bails.

12. Section 438 of the Cr.P.C. in its present form is extracted below for ready reference:

438. Direction for grant of bail to person apprehending arrest.—

(1) Where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, inter alia, the following factors, namely:—

(i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;



(iii) the possibility of the applicant to flee from justice; and

(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested,

either reject the application forthwith or issue an interim order for the grant of anticipatory bail:

Provided that, where the High Court or, as the case may be, the Court of Session, has not passed any interim order under this sub-section or has rejected the application for grant of anticipatory bail, it shall be open to an officer in-charge of a police station to arrest, without warrant the applicant on the basis of the accusation apprehended in such application.

(1-A) Where the Court grants an interim order under sub-section (1), it shall forthwith cause a notice being not less than seven days notice, together with a copy of such order to be served on the Public Prosecutor and the Superintendent of Police, with a view to give the Public Prosecutor a reasonable opportunity of being heard when the application shall be finally heard by the Court.

(1-B) The presence of the applicant seeking anticipatory bail shall be obligatory at the time of final hearing of the application and passing of final order by the Court, if on an application made to it by the Public Prosecutor, the Court considers such presence necessary in the interest of justice.]

(2) When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including—

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;



(iii) a condition that the person shall not leave India without the previous permission of the court;

(iv) such other condition as may be imposed under sub-section (3) of Section 437, as if the bail were granted under that section.

(3) If such person is thereafter arrested without warrant by an officer in charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail; and if a Magistrate taking cognizance of such offence decides that a warrant should issue in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub-section (1).

[(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (3) of section 376 or section 376-AB or section 376-DA or section 376-DB of the Indian Penal Code (45 of 1860)].

13. The earlier Code (Cr.P.C., 1898) did not have any provision akin to 438 of the new Code (Cr.P.C., 1973). The Law Commission of India in its 41st report dated 24th of September 1969, gave the suggestion for incorporating a provision in the Code for anticipatory bails as the past experience showed that many a times, influential persons implicated their rivals in false cases, which tendency had grown in a large measure by that time. Apart from this, it was felt by the Law Commission that it would be futile to take such accused person in custody even if there were no flight



risks or chances of any misuse of liberty. The Law Commission was also of the view that no fixed guidelines could be enumerated and it would be better to leave the matter to the discretion of the Courts.

14. However, in its 48th report, the Law Commission thought that it would be prudent to suggest that such power to grant anticipatory bail be exercised in exceptional cases and that the final order should be made only after noticing the Public Prosecutor. The initial order should be interim and if any directions are to be issued, the Court should record the reasons that those directions are necessary in the interest of justice.

15. The result of all this was the incorporation of Section 438 in the new Code which has been quoted above.

16. In the State of Punjab in the year 1977, on the report of the Superintendent of Police, Vigilance Squad, a case under the Prevention of Corruption Act and Indian Penal Code was registered against one *Gurbaksh Singh Sibia*, the then State Irrigation and Power Minister in the Congress Ministry of the Government of Punjab and several others for



corrupt practices including acquisition of assets which were disproportionate to the known source of income in the form of movable and immovable property and shares held *Benami* and clandestinely in other names.

17. For the state, it was argued that the allegations were of the most blatant corruption and misuse of high authority for personal and political gains and the defence was their vilification/victimization as political opponents, in general, by the present Ruling party. It was further urged by the accused persons that the Congress Government in the State earlier had constituted a Commission of Inquiry headed by a High Court Judge to inquire into certain allegations against the Ministers of the former Government of Akali party headed by *S. Prakash Singh Badal* earlier and many of them had been indicted including Mr. Badal. The present case against the accused persons was only a reprisal of the same and was heavily politically motivated.

18. A Single Judge of Punjab and Haryana High Court referred the matter to the full bench, considering its importance.



19. The full bench of Punjab and Haryana High Court in ***Gurbaksh Singh Sibbia vs. State of Punjab AIR 1978 P&H 1*** after having examined the history of the legislation (incorporation of Section 438 in the new Code) and several other cases; especially ***Balachand Jain's case (AIR 1977 SC 366)*** rejected the case of the petitioners but formulated an eight-fold Code as a denouement of the entire discussion. Those are:

“(1) The power under Section 438, Criminal Procedure Code, is of an extraordinary character and must be exercised sparingly in exceptional cases only;

(2) Neither Section 438 nor any other provision of the Code authorises the grant of blanket anticipatory bail for offences not yet committed or with regard to accusations not so far levelled.

(3) The said power is not unguided or uncanalised but all the limitations imposed in the preceding Section 437, are implicit therein and must be read into Section 438.

(4) In addition to the limitations mentioned in Section 437, the petitioner must make out a special case for the exercise of the power to grant anticipatory bail.

(5) Where a legitimate case for the remand of the offender to the police custody under Section 167(2) can be made out by the investigating agency or a reasonable claim to secure incriminating material from information likely to be received from the offender under Section 27 of the Evidence Act can be made out, the power under Section 438 should not be exercised.

(6) The discretion under Section 438 cannot be exercised with regard to offences punishable with death or imprisonment for life unless the court at that very stage is satisfied that such a charge appears to be false or groundless.

(7) The larger interest of the public and State demand that in serious cases like economic



offences involving blatant corruption at the higher rungs of the executive and political power, the discretion under Section 438 of the Code should not be exercised; and

(8) Mere general allegations of mala fides in the petition are inadequate. The court must be satisfied on materials before it that the allegations of mala fides are substantial and the accusation appears to be false and groundless.”

20. The matter thereafter travelled to the Supreme Court and a Constitution Bench of five judges had the occasion to re-visit those issues ***[(1980) 2 SCC 565]***. The views of the Full Bench of the Punjab and Haryana High Court were not approved by the Constitution Bench.

21. The Constitution Bench was of the view that Section 438 was framed in a broad and unqualified manner, which could not have been made narrower with restraints and conditions by a judicial edict, which is not available in the statute and that also when the purpose of statute is to secure personal freedom based on principle of innocence. The Parliament, while incorporating 438 in the new Code did not have a *tabula rasa*. There were two other provisions already existing in the Code viz. Sections 437 and 439, dealing with the powers of the Courts other than the Courts of Sessions and High Courts, to grant bail in non-bailable cases and



special powers of the High Court and Sessions Court regarding bails respectively, both of which sections had *in-built* restrictions and conditions for exercise of such power. If at all the Parliament would have intended to put conditions and restrictions on the power to grant anticipatory bail by Sessions Court and the High Courts, it would have incorporated it in the statute like in sections 437 and 439 of the Cr.P.C. The Parliament had made a departure from the existing model of 437 and 439, which had a purpose *viz.* to leave the power of the Sessions court and the High Court untrammelled by any condition.

22. Discretion always means sound discretion and not fanciful or imaginary.

23. The Constitution Bench opined that the use of the words "*may if it thinks fit*" in Section 438(1) and conferment of powers to include conditions including those enumerated in 438(2) clearly spelt-out the intention of the Parliament that it would be better to leave the discretion in the hands of seasoned and Senior Judges (Sessions Court and High Courts). There is always "risk in foreclosing categories of



cases in which anticipatory bail may be allowed because life throws up unforeseen possibilities and offers new challenges and judicial discretion must remain free enough to be able to take those possibilities in its stride and to meet those challenges". Any judicial artifice or technique would only encroach upon the discretionary powers of the Sessions court and the High Courts.

24. With respect to the first point in the eight fold Code formulated by the Full Bench of Punjab and Haryana High Court, the Constitution Bench was of the view that it may perhaps be right to describe the power under Section 438 Cr.P.C. as of an extraordinary character because ordinarily, bail is applied for under sections 437 or 439, which sections deal with the power to grant or refuse bail to a person who is in the custody of the police and that is the ordinary situation in which bail is generally applied for but this does not justify the conclusion that power must be exercised in exceptional cases only because it is of an extraordinary character. *"It would be unnecessary to travel beyond the*



words of the statute and render the wide powers conferred by the legislature to a rigorous code of self-imposed limitations".

25. The Constitution Bench agreed, by and large, with the second proposition formulated by the Full Bench that no blanket anticipatory bail for offences not yet committed or with regard to accusations not so far levelled, could be granted with reference to characterization of such power as extraordinary in character and to be applied only in exceptional cases. Hon'ble Justice Bhagwati in ***Balachand Jain vs. State of M.P.*** (supra) had said so in the context of a poser before the court as to whether the provisions of Section 438 would stand overruled and repealed by virtue of *Rule 184 of the Defence and Internal Security of India Rules, 1971* or whether both the provisions could, by the rule of harmonious interpretation, exist side by side,

26. The Constitution Bench, however, agreed that the power to grant anticipatory bail should be exercised with due care and circumspection. Section 438 is a procedural provision, which is concerned with the personal liberty of the individual, who is entitled to the benefit of the presumption of



innocence, since he is not, on the date of his application for anticipatory bail, convicted of the offence in respect of which he seeks bail. *"An overgenerous infusion of constraints and conditions which are not to be found in Section 438 can make its provisions constitutionally vulnerable, since the right to personal freedom cannot be made to depend on compliance with unreasonable restrictions. The beneficial provision contained in Section 438 must be saved, not jettisoned. No doubts ought to linger after the decision in Maneka Gandhi vs Union of India 1978 (1) SCC 248, that in order to meet the challenge of Article 21 of the Constitution, the procedure established by law for depriving a person of his liberty must be fair, just and reasonable. Section 438, in the form in which it is conceived by the legislature, is open to no exception on the ground that it prescribes a procedure which is unjust or unfair. We ought, at all costs, to avoid throwing it open to a constitutional challenge by reading words in it which are not to be found therein."*

27. While saying so, the Constitution Bench referred to the observations of the High Court of Calcutta in



Nagendra Nath Chakrabarthi vs King-Emperor AIR 1924, Calcutta 476 that the object of bail is to secure the attendance of the accused at the trial and that the proper test to be applied for whether bail should be granted or refused, is whether it is probable that the party will appear to take his trial and that bail is not to be withheld as punishment; and the observations of the Court in ***Meerut Conspiracy Cases (K.N. Joglekar vs Emperor, AIR 1931, All 504; Emperor vs H.L. Hutchinson, AIR 1931, All 356)*** that Section 498 (corresponding to present 439) conferred upon Sessions Judge or the High Court wide powers to grant bail which were not hedged by the restrictions in the preceding Section 497 (which corresponds to present Section 437); that there is no hard and fast rule and no inflexible principles governing the exercise of discretion; the only principle which was established was that the discretion should be exercised judiciously.

28. The Constitution Bench also referred to the observations made by Krishna Iyer, J. in ***Gudikanti Narasimhulu vs. Public Prosecutor (1978) 1 SCC 240,***



that "the issue of bail is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitized judicial process.....after all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of procedure established by law".

29. With respect to the third point of the Full Bench that the conditions under Section 437 are implicit in 438, the Constitution Bench was of the view that there is no justification for reading such conditions in Section 438. The plenitude of the Section must be given its full play.

30. The requirement of making out "special case" for the exercise of power to grant anticipatory bail (fourth proposition) would virtually reduce the salutary power conferred by Section 438 to a dead letter. An applicant has undoubtedly to make out a case for the grant of anticipatory bail; but one cannot go further and say that he must make out a special case. There is no reason to suspect anything "volatile or incendiary" in Section 438, which needs to be handled with greatest care and caution imaginable. A wise



exercise of judicial power inevitably takes care of the evil consequences which are likely to flow out of its intemperate use. "One ought not to make a bugbear of the power to grant anticipatory bail".

31. Responding to proposition number five of the Full Bench, the Constitution Bench referred to the judgment of the ***Privy Council in Emperor vs. Khawaja Nazir Ahmad (AIR 1945, PC 18)***

"just as it is essential that everyone accused of a crime should have free access to a Court of Justice so that he may be duly acquitted if found not guilty of the offense with which he is charged, so it is of utmost importance that the judiciary should not interfere with the police in matters which are within their province and into which the law imposes on them the duty of inquiry

The functions of the judiciary and the police are complementary, not overlapping, and the combination of the individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function....."

and concluded that an order of anticipatory bail does not in any way directly or indirectly takes away from the



police their right to investigate into charges made or to be made against the person released on bail.

32. Two of the usual conditions incorporated in a direction issued under Section 438 (1) are those recommended in Sub-section 2 (I)(II) which require the applicant to co-operate with the police and to assure that he shall not tamper with the witnesses during and after the investigation; and if and when the occasion arises, it may be possible for the prosecution to claim the benefit of Section 27 of the Evidence Act in regard to discovery of facts made in pursuance of information supplied by a person released on bail by invoking the principle stated by the Supreme Court in ***State of U.P. vs Deoman Upadhyaya, 1960 AIR 1125*** to the effect that when a person not in custody approaches a police officer investigating an offence and offers to give information leading to the discovery of a fact having a bearing on the charge which may be made against him, he may appropriately be deemed to so have surrendered himself to the police. This is based on Section 46 of the Code of Criminal Procedure which does not contemplate any formality



before a person can be said to be taken in custody. Submission to the custody by word or action by a person is sufficient.

33. Thus, the Constitution Bench held that anticipatory bail ought not to be refused only on the condition of a legitimate case for remand of the offender to the police custody under Section 167 (2) of the Code.

34. There is no warrant for reading into Section 438 the conditions mentioned in 437 (1) of the Code. (6th proposition)

35. The power under Section 438 (1) could be exercised if the High Court or the Court of Session thought fit to do so. Section 437 (1) does not confer the power to grant bail in the same wide terms. The expression "if it thinks fit", which occurs in Section 438 (1) in relation to power of the High Court or the Court of Sessions is conspicuously absent in Section 437 (1).

36. Thus the Constitution Bench saw no good reason for rewriting Section 438 and that also not for expanding the scope and ambit of the discretion but for the purposes of



limiting it. The Constitution Bench expressed surprise that
*"how could a Court, even if it had a third eye, assess the
blatantness of corruption at the stage of anticipatory bail?"*
*"And will it be correct to say that blatantness of accusation
will suffice for rejecting bail, if the applicant's conduct is
painted in colours too lurid to be true?"* (**Re.- 7th
proposition**)

37. Similarly, with respect to the eighth proposition
viz. *"mere general allegations of malafides in the petition are
inadequate"*, the Constitution Bench hypothesized that with
that proposition in mind, it would not be easy to appreciate
why an application for anticipatory bail must be rejected
unless the accusation is shown to be malafide. There is a
great risk involved in framing rules by judicial construction.
Discretion, therefore, ought to be permitted to remain in the
domain of the judges, to be exercised objectively and open to
correction by the higher Courts.

38. Whether anticipatory bail is to be granted or not
would depend on variety of circumstances and no one single



circumstance could be treated as of universal validity or as necessarily justifying grant or refusal of bail.

39. As a summation, apart from the aforementioned response to the eight-fold points, the Constitution Bench further held that (I) the applicant must show that he has reasons to believe that he may be arrested for non-bailable offence and such belief must be founded on reasonable grounds; (II) if an application for anticipatory bail is made to the High Court or the Court of Sessions, it must apply its mind and not leave the question for the decision of the Magistrate concerned under 437, as and when occasion would arise. Such a course would defeat the every object of Section 438; (III) filing of FIR is not a condition precedent to the exercise of the power under 438. The imminence of a likely arrest, founded on a reasonable belief can be shown to exist even if an FIR is not yet filed; (IV) anticipatory bail can be granted even after an FIR is filed, so long as the applicant has not been arrested. and; (V) The provisions of 438 cannot be invoked after the arrest of the accused, when he must seek his remedy under Sections 437 or 439, if he wants to be



released on bail in respect of offences for which he has been arrested.

40. This interpretation by the Constitution Bench held the field for approximately 15 years.

41. However, a discordant note was struck in 1996 in ***Salauddin Abdulsamad Shaikh vs. The State of Maharashtra 1996 SCC (1) 667***, which declared that the grant of anticipatory bail should not mean that the regular Court which is to try the offender would be bypassed. The outer date for continuance of the bail be necessarily fixed whereafter the applicant should move the regular Court for bail.

42. This view in *Salauddin* (supra) was followed in ***K.L. Verma vs. State and Anr. (1998) 9 SCC 348***; ***Sunita Devi vs. State of Bihar (2005) 1 SCC 608***; ***Nirmal Jeet Kaur vs. State of M.P. (2004) 7 SCC 558***; ***Afri Dharan Das vs. State of W.B. (2005) 4 SCC 303***; ***HDFC Bank Limited vs. J.J. Mannan @ J.M. John Paul and Anr. (2010) 1 SCC 679***.



43. However, in ***Siddharam Satlingappa Mhetre vs. State of Maharashtra (2011) 1 SCC 694***, the Supreme Court noticed that the Constitution Bench had clearly indicated that imposition of restrictions for granting anticipatory bail was not always necessary and, therefore, held that the law laid down by the judgments referred to above are contrary to the verdict in *Sibbia* (supra). In *Mhetre*, the Supreme Court held that no condition ought to be imposed by the Court, while granting anticipatory bail, which was to enure and protect the individual indefinitely even when charges were framed in a given criminal case, leading to trial - till the end of the trial. This was followed by another judgment of the Supreme Court in ***Bhadresh Bipinbhai Sheth vs. State of Gujarat and Anr. (2016) 1 SCC 152***.

44. These contradictory and incongruent strands of reasoning in two distinct line of precedents necessitated the reference to a larger Bench of five judges in ***Sushila Agarwal and Others vs. State (NCT of Delhi) and Another (2020) 5 SCC 1*** where the questions posed before this Constitution Bench were as follows:



(I) whether the protection granted to a person under section 438 Cr.P.C. should be limited to a fixed period so as to enable the person to surrender before the trial court and seek regular bail and:

(2) whether the life of an anticipatory bail should end at the time and stage, when the accused is summoned by the Court.

45. In view of the concurring judgments of Hon'ble Justice M. R. Shah and Hon'ble Justice S. Ravindra Bhatt with Hon'ble Justice Arun Mishra, Hon'ble Ms. Justice Indira Banerjee and Hon'ble Mr. Justice Vineet Sharan agreeing with them the reference was answered accordingly.

FINAL CONCLUSIONS OF THE COURT

1. In view of the concurring judgments of M.R. Shah, J. and of S. Ravindra Bhat, J. with Arun Mishra, Indira Banerjee and Vineet Saran, JJ. agreeing with them, the following answers to the reference are set out:

2. Regarding Question 1, this Court holds that the protection granted to a person under Section 438 CrPC should not invariably be limited to a fixed period; it should enure in favour of the accused without any restriction on time. Normal conditions under Section 437(3) read with Section 438(2) should be imposed; if there are specific facts or features in regard to any offence, it is open for the court to impose any appropriate condition (including fixed nature of relief, or its being tied to an event), etc.



3. As regards the second question referred to this Court, it is held that the life or duration of an anticipatory bail order does not end normally at the time and stage when the accused is summoned by the court, or when charges are framed, but can continue till the end of the trial. Again, if there are any special or peculiar features necessitating the court to limit the tenure of anticipatory bail, it is open for it to do so.

4. This Court, in the light of the above discussion in the two judgments, and in the light of the answers to the reference, hereby clarifies that the following need to be kept in mind by courts, dealing with applications under Section 438 CrPC:

5. Consistent with the judgment in *Gurbaksh Singh Sibbia v. State of Punjab* [*Gurbaksh Singh Sibbia v. State of Punjab*, (1980) 2 SCC 565 : 1980 SCC (Cri) 465] , when a person complains of apprehension of arrest and approaches for order, the application should be based on concrete facts (and not vague or general allegations) relatable to one or other specific offence. The application seeking anticipatory bail should contain bare essential facts relating to the offence, and why the applicant reasonably apprehends arrest, as well as his side of the story. These are essential for the court which should consider his application, to evaluate the threat or apprehension, its gravity or seriousness and the appropriateness of any condition that may have to be imposed. It is not essential that an application should be moved only after an FIR is filed; it can be moved earlier, so long as the facts are clear and there is reasonable basis for apprehending arrest.

6. It may be advisable for the court, which is approached with an application under Section 438, depending on the seriousness of the threat (of arrest) to issue notice to the Public Prosecutor and obtain facts, even while granting *limited interim anticipatory bail*.

7. Nothing in Section 438 CrPC, compels or obliges courts to impose conditions limiting relief in terms of time, or upon filing of FIR, or recording of statement of any witness, by the police, during investigation or inquiry, etc. While considering an application (for grant of anticipatory bail) the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the



course of investigation, or tampering with evidence (including intimidating witnesses), likelihood of fleeing justice (such as leaving the country), etc. The courts would be justified — and ought to impose conditions spelt out in Section 437(3) CrPC [by virtue of Section 438(2)]. The need to impose other restrictive conditions, would have to be judged on a case-by-case basis, and depending upon the materials produced by the State or the investigating agency. Such special or other restrictive conditions may be imposed if the case or cases warrant, but should not be imposed in a routine manner, in all cases. Likewise, conditions which limit the grant of anticipatory bail may be granted, if they are required in the facts of any case or cases; however, such limiting conditions may not be invariably imposed.

8. Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court.

9. Anticipatory bail granted can, depending on the conduct and behaviour of the accused, continue after filing of the charge-sheet till end of trial.

10. An order of anticipatory bail should not be “blanket” in the sense that it should not enable the accused to commit further offences and claim relief of indefinite protection from arrest. It should be confined to the offence or incident, for which apprehension of arrest is sought, in relation to a specific incident. It cannot operate in respect of a future incident that involves commission of an offence.

11. An order of anticipatory bail does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the person who seeks and is granted pre-arrest bail.

12. The observations in *Sibbia [Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 : 1980 SCC (Cri) 465]* regarding “limited custody” or “deemed custody” to facilitate the requirements of the investigative authority, would be sufficient for the



purpose of fulfilling the provisions of Section 27, in the event of recovery of an article, or discovery of a fact, which is relatable to a statement made during such event (i.e. deemed custody). In such event, there is no question (or necessity) of asking the accused to separately surrender and seek regular bail. *Sibbia* [*Gurbaksh Singh Sibbia v. State of Punjab*, (1980) 2 SCC 565 : 1980 SCC (Cri) 465] had observed that : (SCC p. 584, para 19)

"19. ... if and when the occasion arises, it may be possible for the prosecution to claim the benefit of Section 27 of the Evidence Act in regard to a discovery of facts made in pursuance of information supplied by a person released on bail by invoking the principle stated by this Court in *State of U.P. v. Deoman Upadhyaya* [*State of U.P. v. Deoman Upadhyaya*, AIR 1960 SC 1125 : (1961) 1 SCR 14 : 1960 Cri LJ 1504] ."

13. It is open to the police or the investigating agency to move the court concerned, which grants anticipatory bail, for a direction under Section 439(2) to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial, etc.

14. The court referred to in para 92.9 above is the court which grants anticipatory bail, in the first instance, according to prevailing authorities.

15. The correctness of an order granting bail, can be considered by the appellate or superior court at the behest of the State or investigating agency, and set aside on the ground that the court granting it did not consider material facts or crucial circumstances. (See *Prakash Kadam v. Ramprasad Vishwanath Gupta* [*Prakash Kadam v. Ramprasad Vishwanath Gupta*, (2011) 6 SCC 189 : (2011) 2 SCC (Cri) 848] ; *Jai Prakash Singh* [*Jai Prakash Singh v. State of Bihar*, (2012) 4 SCC 379 : (2012) 2 SCC (Cri) 468] ; *State of U.P. v. Amarmani Tripathi* [*State of U.P. v. Amarmani Tripathi*, (2005) 8 SCC 21 : 2005 SCC (Cri) 1960 (2)] .) This does not amount to "cancellation" in terms of Section 439(2) CrPC.

16. The observations in *Siddharam Satlingappa Mhetre v. State of Maharashtra* [*Siddharam Satlingappa Mhetre v. State of Maharashtra*, (2011) 1 SCC 694 : (2011) 1 SCC



(Cri) 514] (and other similar judgments) that no restrictive conditions at all can be imposed, while granting anticipatory bail are hereby overruled. Likewise, the decision in *Salauddin Abdulsamad Shaikh v. State of Maharashtra* [*Salauddin Abdulsamad Shaikh v. State of Maharashtra*, (1996) 1 SCC 667 : 1996 SCC (Cri) 198] and subsequent decisions (including *K.L. Verma v. State* [*K.L. Verma v. State*, (1998) 9 SCC 348 : 1998 SCC (Cri) 1031] , *Sunita Devi v. State of Bihar* [*Sunita Devi v. State of Bihar*, (2005) 1 SCC 608 : 2005 SCC (Cri) 435] , *Adri Dharan Das v. State of W.B.* [*Adri Dharan Das v. State of W.B.*, (2005) 4 SCC 303 : 2005 SCC (Cri) 933] , *Nirmal Jeet Kaur v. State of M.P.* [*Nirmal Jeet Kaur v. State of M.P.*, (2004) 7 SCC 558 : 2004 SCC (Cri) 1989] , *HDFC Bank Ltd. v. J.J. Mannan* [*HDFC Bank Ltd. v. J.J. Mannan*, (2010) 1 SCC 679 : (2010) 1 SCC (Cri) 879] , *Satpal Singh v. State of Punjab* [*Satpal Singh v. State of Punjab*, (2018) 13 SCC 813 : (2019) 1 SCC (Cri) 424] and *Naresh Kumar Yadav v. Ravindra Kumar* [*Naresh Kumar Yadav v. Ravindra Kumar*, (2008) 1 SCC 632 : (2008) 1 SCC (Cri) 277]) which lay down such restrictive conditions, or terms limiting the grant of anticipatory bail, to a period of time are hereby overruled.

17. The reference is hereby answered in the above terms.

46. Now taking the narrative further for answering the posers before this Bench, we reckon that a person applying for bail under 438 Cr.P.C. must have reasons to believe that he may be arrested for a non-bailable offence.

47. Would a person summoned in a Complaint Case have a right to file an application under 438 of the Code of Criminal Procedure. To put it differently, whether summoning of an accused, post cognizance, in a Complaint Case in



respect of a non-bailable offence engenders an apprehension of arrest and that also, only under the circumstance that a summons rather than a warrant has been issued by the Magistrate. The supplementary poser would be whether Section 438 Cr.P.C. can be read in such a way that it differentiates between arrest by the police or by the Magistrate.

48. Preventing an accused summoned in connection with non-bailable offence from applying under section 438 Cr.P.C. would lead to reading into the Section a condition which, in ultimate analysis, would restrict its scope.

49. We have reasons for saying so.

50. Section 6 of the Cr.P.C. provides for the following classes of Criminal Courts besides the High Courts and the Courts constituted under special law *viz.* (1) Courts of Sessions; (2) Judicial Magistrate of the first class/Metropolitan Magistrate; (3) Judicial Magistrate of the second class; and (4) Executive Magistrates.



51. Complaints to Magistrates and commencement of proceedings before the Magistrates falls under chapter-XV and XVI of the Code respectively.

52. Sections 200 to 205 read as follows:

200. Examination of complainant.—
A Magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:

Provided that, when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses—

(a) if a public servant acting or purporting to act in the discharge of his official duties or a court has made the complaint; or

(b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under Section 192:

Provided further that if the Magistrate makes over the case to another Magistrate under Section 192 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them.

201. Procedure by Magistrate not competent to take cognizance of the case.—If the complaint is made to a Magistrate who is not competent to take cognizance of the offence, he shall,—

(a) if the complaint is in writing, return it for presentation to the proper Court with an endorsement to that effect;

(b) if the complaint is not in writing, direct the complainant to the proper Court.

202. Postponement of issue of process.—(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under Section 192, may, if he thinks fit, 132[and shall, in a case where the accused is residing at a place beyond the area in which he exercises his



jurisdiction,] postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding:

Provided that no such direction for investigation shall be made,—

(a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session; or

(b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under Section 200.

(2) In an inquiry under sub-section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath:

Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.

(3) If an investigation under sub-section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Code on an officer in charge of a police station except the power to arrest without warrant.

203. Dismissal of complaint.—If, after considering the statements on oath (if any) of the complainant and of the witnesses and the result of the inquiry or investigation (if any) under Section 202, the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons for so doing.

204. Issue of process.—(1) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be—

(a) a summons-case, he shall issue his summons for the attendance of the accused, or

(b) a warrant-case, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has no



jurisdiction himself) some other Magistrate having jurisdiction.

(2) No summons or warrant shall be issued against the accused under sub-section (1) until a list of the prosecution witnesses has been filed.

(3) In a proceeding instituted upon a complaint made in writing, every summons or warrant issued under sub-section (1) shall be accompanied by a copy of such complaint.

(4) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

(5) Nothing in this section shall be deemed to affect the provisions of Section 87.

205. Magistrate may dispense with personal attendance of accused.—(1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused and permit him to appear by his pleader.

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in the manner hereinbefore provided.

53. Under Section 204, if in the opinion of the Magistrate taking cognizance of an offence, there is sufficient ground for proceeding and the case appears to be a summons case, he shall issue summons for the attendance of the accused or in a warrant case, he may issue a warrant or if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before him.



54. The terms "summons" and "warrant" have not been defined in the Cr.P.C. The Dictionary of the Code merely refers to summons and warrant cases, which have been defined in sections 2 (X) and (W) respectively.

55. Chapter VI of the Code is captioned as "process to compel appearance" (Section 61 to 69 thereof) which provides the form of summons; viz., it is to be served; service of summons on corporate bodies in societies; service when persons summons cannot be found, procedure when service cannot be effected and service on government servants etc.

56. It also explains how the service of summons would be made outside the local limits and what would be the proof of service in such cases when serving officer is not present. The service of summons on a witness could be made by post also.

57. The form of warrant of arrest, its duration etc. have been provided under Sections 70 to 81.

58. Section 87 provides that a Court may, in any case in which it is empowered by the Code to issue a summons for appearance of any person, issue, after recording



its reasons in writing, a warrant for his arrest, if either before the issue of such summons or after the issue of the same but before the time fixed for his appearance the Court sees reasons to believe that he has absconded or will not obey the summons or if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such period.

59. Section 88 prescribes that when any person against whom a summons or warrant is issued is present before the Court, such Court may require such person to execute a bond, with or without sureties, for his appearance in the Court or any other Court to which the case will be transferred for trial.

60. The Supreme Court in ***Inder Mohan Goswami vs. State of Uttaranchal and Others SCC (2007) 12 SCC 1*** has mandated, keeping in mind the importance of liberty and its preservation in the interest of individual as well as the society, that non-bailable warrant should be issued only when summons or bailable warrants would be unlikely to



have the desired result. This would be when (I) it is reasonable to believe that the person will not voluntarily appear in the Court or; (II) the police authorities are unable to find the person to serve him with the summons or; (III) it is considered that the person could harm someone if not placed into custody immediately. The further proscription provided by the Supreme Court is that as far as possible, if the Court is of the opinion that a summons will suffice in getting the appearance of the accused in the Court, the summons or the bailable warrant should be preferred. The warrants, either bailable or non-bailable, should never be issued without proper scrutiny of facts and complete application of mind due to the extremely serious consequences and ramifications which ensue on issuance of warrants. The court must very carefully examine whether or not the Criminal Complaint or FIR has been filed with an oblique motive.

61. In Complaint Cases, at the first instance, the Court should direct serving of the summons along with a copy of the Complaint. If the accused seems to be avoiding the



summons, the Court, in the second instance should issue bailable warrant. In the third instance, when the Court is fully satisfied that the accused is avoiding the Court's proceedings intentionally, the processes of issuance of non-bailable warrant should be resorted to. Personal liberty is paramount and therefore, it was cautioned that the Courts at the first and the second instance must refrain from issuing non-bailable warrant of arrest. Since the power is discretionary, it has to be exercised judiciously and with extreme care and caution, thereby balancing both personal liberty and societal interest before issuing warrants.

62. The Supreme Court, however, admitted that there cannot be any straight-jacket formula for issuance of warrants but as a general rule, unless an accused is charged with the commission of an offence of a heinous crime and it is feared that he is likely to tamper or destroy the evidence or is likely to evade the process of law, issuance of non-bailable warrant should be avoided.

63. Thus, it can be seen from the aforementioned conspectus of the Sections of the Code that the purpose of



issuance of summons or warrant for that matter, is only to procure the attendance of the accused as the criminal proceeding cannot be conducted in the absence of the accused.

64. Summons and warrants are but only different modes of achieving the same purpose *viz.* appearance or attendance of the person upon whom the summons is served or warrant issued by the Magistrate. A look at the forms of summons and warrant in the Second Schedule of the Code will further demonstrate that the difference between summons and warrant is more of substance than of kind and these are only alternate modes of process to compel appearance.

65. Section 437 of the Code of Criminal Procedure takes away the power of a Court other than the Sessions Court and the High Court to grant bail in non-bailable cases, where the offence alleged to have been committed is punishable with death or imprisonment for life.

66. Section 437 Cr.P.C. reads as follows:-

437. When bail may be taken in case of non- bailable offence.-



(1) When any person accused of, or suspected of, the commission of any non- bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but-

(i) such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;

(ii) such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a non- bailable and cognizable offence: Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is under the age of sixteen years or is a woman or is sick or infirm: Provided further that the Court may also direct that a person referred to in clause (ii) be released on bail if it is satisfied that It is just and proper so to do for any other special reason: Provided also that the mere fact that an accused person may be required for being identified by witnesses during investigation shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court.]

(2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non-bailable offence, but that there are sufficient grounds for further inquiry into his guilt the accused shall, subject to the provisions of section 446A and pending such inquiry, be released on bail] or at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(3) When a person accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under Chapter VI, Chapter XVI or Chapter XVII of the Indian Penal Code or abetment of, or conspiracy or attempt to commit, any such offence, is released on bail under sub- section (1), the



Court may impose any condition which the Court considers necessary-

(a) in order to ensure that such person shall attend in accordance with the conditions of the bond executed under this Chapter, or

(b) in order to ensure that such person shall not commit an offence similar to the offence of which he is accused or of the commission of which he is suspected, or

(c) otherwise in the interests of justice.

(4) An officer or a Court releasing any person on bail under sub- section (1) or sub- section (2), shall record in writing his or its reasons or special seasons] for so doing.

(5) Any Court which has released a person on bail under sub- section (1) or sub- section (2), may, if it considers it necessary so to do, direct that such person be arrested and commit him to custody.

(6) If, in any case triable by a Magistrate, the trial of a person accused of any non- bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.

(7) If, at any time after the conclusion of the trial of a person accused of a non- bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered.

67. For such cases also, a Complaint can be filed and if after inquiry, the Court finds substance in the charge, he will take cognizance and in the first instance issue summons. On the appearance of an accused in a Complaint



Case against a charge of having committed an offence punishable with death or imprisonment for life, he would be within the custody of the Court who could remand him to police custody.

68. The danger and the apprehension does not get quenched only because summons in the first instance has been issued.

69. The provision contained in Section 88 of the Code of Criminal Procedure, which we have seen earlier, also does not necessarily lead to the conclusion that in all cases where summons have been issued in a non-bailable offence, the bond of the accused who appears before such Magistrate shall surely be accepted.

70. The Supreme Court in ***Pankaj Jain vs. Union of India and Another (2018) 5 SCC 743***, had an occasion to analyze the provision contained in Section 88 of the Code.

71. Brief facts of that case would only make the explanation easier.

72. The CBI had filed a case against the Chief Engineer of Greater Noida and Yamuna Expressway



Authorities in which chargesheet was submitted against several of the accused persons including the appellant/*Pankaj Jain*, whereafter cognizance was taken and the accused persons were summoned for appearance. A 482 Cr.P.C. application was filed before the Allahabad High Court for quashing of the entire criminal proceeding of the case, which was declined but with an observation that if the applicant appears and surrenders before the Court below within two weeks and prays for bail, his bail application shall be considered and decided. Instead of courting that course, the appellant filed Special Leave Petition before the Supreme Court which also was dismissed as withdrawn but with a liberty to him to apply for regular bail. In the meantime, a supplementary chargesheet was also filed on the basis of which cognizance was taken against the appellant and other accused persons under various Sections of the IPC and Prevention of Corruption Act. Again a 482 Cr.P.C. application was filed before the High Court for quashing the criminal proceeding arising out the supplementary chargesheet. The High Court, as before, disposed of the application directing



the applicant to appear and surrender before the Special Judge, CBI within two weeks and apply for bail, when the CBI Court would dispose of such application expeditiously and in accordance with law. The High Court, this time, granted the appellant a brief reprieve of two weeks before he could surrender before the CBI Court. This order was again challenged before the Supreme Court. The Supreme Court gave further two weeks time to the appellant to apply for regular bail before the Special Judge. When the matter was taken up by the Special Judge, CBI on the date fixed, neither the appellant nor any other accused persons were present which led the Court to issue non-bailable warrant of arrest and processes under Sections 82 and 83 Cr.P.C. But the Court itself stayed the implementation of such order for two weeks on noticing the observations of the Supreme Court. The appellant thereafter, preferred a petition under Article 32 of the Constitution of India before the Supreme Court contending that since he was not arrested during the investigation by the CBI, the CBI Court must be directed to accept his bonds once he surrenders before the CBI Court



under Section 88 of the Code of Criminal Procedure. This time again, the petition was disposed off, leaving it open for the appellant to move an application under Section 88 Cr.P.C. or a bail application, as advised. The Trial court was required to go through the matter and take a view thereupon.

73. The Supreme Court thus had expressed no opinion on the merits of the case.

74. The Special Judge, CBI rejected such application of the appellant by observing that the word '*may*' used in Section 88 signifies that it is not mandatory but falls within the domain of the judicial discretion of the Court. The Special Judge CBI, after taking note of the allegations against the appellant and the developments in the interregnum, rejected his application for acceptance of bonds under 88 Cr.P.C. The appellant thereafter again knocked the doors of Supreme Court but was asked to agitate his cause before the concerned High Court. The writ petition preferred by him before the High Court was also dismissed by a Division Bench, against which he preferred an appeal before the Supreme Court.



75. The Supreme Court, after analyzing the import of the word 'may' in Section 88 and finding it to be only an enabling word and not a word of compulsion and therefore implying discretion, held that it was not only on the asking of the appellant that his bonds will be accepted. It would, for sure, depend upon the discretion exercised by the court whether to accept the bond or to reject it.

76. It was thus held as follows:

"22. Section 88 CrPC does not confer any right on any person, who is present in a court. Discretionary power given to the court is for the purpose and object of ensuring appearance of such person in that court or to any other court into which the case may be transferred for trial. Discretion given under Section 88 to the court does not confer any right on a person, who is present in the court rather it is the power given to the court to facilitate his appearance, which clearly indicates that use of the word "may" is discretionary and it is for the court to exercise its discretion when situation so demands. It is further relevant to note that the word used in Section 88 "any person" has to be given wide meaning, which may include persons, who are not even accused in a case and appeared as witnesses."

77. There is some amount of discretion under Section 441 of the Code also which reads as follows:

441. Bond of accused and sureties.—

(1) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or



more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court, as the case may be.

(2) Where any condition is imposed for the release of any person on bail, the bond shall also contain that condition.

(3) If the case so requires, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

(4) For the purpose of determining whether the sureties are fit or sufficient, the Court may accept affidavits in proof of the facts contained therein relating to the sufficiency or fitness of the sureties, or, if it considers necessary, may either hold an inquiry itself or cause an inquiry to be made by a Magistrate subordinate to the Court, as to such sufficiency or fitness.

78. The apprehension of being arrested of a person summoned in a non-bailable case continues to linger even on his appearance before the Court pursuant to the summons.

79. A cursory glance at some of the decisions of the Supreme Court would be helpful in understanding that merely because a person has been summoned does not necessarily mean that he would not be taken into custody.

80. In ***Shri P.V. Narasimha Rao vs. State (CBI)*** ***ILR (1997) 1, Delhi 507***, a learned Single Judge of Delhi High Court, while deciding an application for anticipatory bail



on behalf of *Sri P.V. Narasimha Rao* in a CBI case in which only summons were issued against him, held that he did not have any apprehension of arrest because of only summons having been issued.

81. But in another petition by the same petitioner, an observation of the Punjab and Haryana High Court in ***Puran Singh vs. Ajit Singh and Another, (1985)*** ***Criminal Law Journal 897*** was quoted viz. "the grant of bail under Section 438 (1) by the High Court or the Court of Sessions is dependent on the merits of a particular case and not the order of Magistrate choosing to summon an accused through bailable or non-bailable warrant.

82. In view of the divergence of views of the learned Single Judge of Delhi High Court and that of Punjab and Haryana High Court, the learned Single Judge referred the matter to the Chief Justice to constitute a larger bench to consider the point. The matter was adjudicated by a Division Bench, which after going through the provisions contained in Section 438 and its legislative history, held that even in such cases, the apprehension is very genuine and real and is not



only figment of imagination. The Division Bench relied upon *Puran Singh* (supra) and various other High Court judgments, all of which are not necessarily to be noted.

83. The same issue was decided similarly by a Full Bench of Calcutta High Court of three Judges in ***Shamim Ahmad and Others vs. State and others (2003) SCC Online Calcutta 148***.

84. On a careful scrutiny of the different case laws and on perusal of the structure of the Cr.P.C., the Bench held and concluded that there is no bar in filing an application under 438 after the filing of the chargesheet or after the issuance of a process under Section 204 of the Code or after the issue of warrant of arrest in a Complaint Case.

85. In yet another case, when an application for anticipatory bail of the parents-in-law of the complainant was rejected by the High Court, the parents-in-law took the matter to the Supreme Court where an objection was raised that since the Trial Court had taken cognizance of the offence, a petition under Section 438 was not maintainable and the only remedy available to the appellants was to approach the



Trial Court for surrendering and seeking bail under Section 439 Cr.P.C. Rejecting such objection in ***Bharat Chaudhary and another vs. State of Bihar and Another (2003) 8 SCC 77***, the Supreme Court held that the object of Section 438 is to prevent undue harassment of the accused persons by pre-trial arrest and detention. The gravity of the offence is an important factor to be taken into consideration while granting such anticipatory bail, so also the need for custodial interrogation; but these are only factors that must be borne in mind by the Courts concerned while entertaining a petition for grant of anticipatory bail and the fact of cognizance having been taken or filing of a chargesheet, cannot by itself be construed as a prohibition against the grant of anticipatory bail. The courts i.e. the Court of Sessions, the High Court and the Supreme Court have the necessary powers vested in them to grant anticipatory bail in non-bailable cases under Section 438 Cr.P.C., even when cognizance is taken or a chargesheet is filed, provided the facts of the case require the Courts to do so.



86. The doubt of the learned Single Judge, therefore, is unnecessary and unwarranted. We respectfully disagree with his view that apprehension of arrest is only when a Magistrate decides to issue non-bailable warrant of arrest against an accused and that in the event of issuance of only summons, there is no such apprehension. The learned Single Judge appears to have completely overlooked the fact that a Complaint can also be filed in a non-bailable case involving punishment of death or imprisonment for life, in which case also, the first option for the Magistrate is to issue summons.

87. Whenever a person appears before the Court, be it under summons, he surrenders to the jurisdiction of the Court. It is the discretion of the Court whether to allow him bail or to remand him to custody.

"A person can be in custody not merely when the police arrests him, produces him before the Magistrate and gets a remand to judicial or other custody. He can be stated to be in judicial custody when he surrenders before the Court and submits it to its directions." These lines have been



extracted from ***Niranjan Singh and Another vs. Prabhakar Rajaram Kharote and Others (1980) 2 SCC***

559. Though in the aforementioned case there was a discussion with respect to custody of a person while deciding an application under 439 of the Cr.P.C. In that case, a Complaint was lodged by an Advocate who was the brother of the victim, who allegedly was shot dead by the police party. Cognizance was taken on the Complaint and non-bailable warrants were issued for the production of accused police officers. Bail was refused by the Magistrate but the issuance of warrants was stayed by him, which practice and the source of such power remains unknown. The police/accused moved the Sessions Court for bail which was granted and such order was affirmed by the High Court also, but with certain conditions.

88. The matter had travelled to Supreme Court on behalf of the Complainant, where an argument was raised that for any person to get regular bail under Section 439, he was required to be in custody and in that case, the accused policemen were not in custody.



89. However, the Supreme Court took note of the fact that the normal position was not available in that case. The accused policemen were not absconding but had appeared and surrendered before the Sessions Court. The Judicial jurisdiction arises only when persons are already in custody and seek the process of the Court to be enlarged. The Supreme Court reckoned that no person accused of an offence can move the Court for bail under Section 439 Cr.P.C. unless he is in custody but when a person would be stated to be in custody within the meaning of Section 439 Cr.P.C. was also answered. Whenever such person is in duress either because he is held by the investigating agency or other police or allied authority or is under the control of the Court having been remanded by judicial order, or having offered himself to the Court's jurisdiction and submitted to its orders by physical presence. To quote the Supreme Court:

"No lexical dexterity nor precedential profusion is needed to come to the realistic conclusion that he who is under the control of the court or is in the physical hold of an officer with coercive power is in custody for the purpose of Section 439. This word is of elastic semantics but its core meaning is that the law has taken control of the person. The equivocatory quibblings and hide-and-seek niceties sometimes heard in court that the



police have taken a man into informal custody but not arrested him, have detained him for interrogation but not taken him into formal custody and other like terminological dubieties are unfair evasions of the straightforwardness of the law. We need not dilate on this shady facet here because we are satisfied that the accused did physically submit before the Sessions Judge and the jurisdiction to grant bail thus arose."

8. *Custody, in the context of Section 439, (we are not, be it noted, dealing with anticipatory bail under Section 438) is physical control or at least physical presence of the accused in court coupled with submission to the jurisdiction and orders of the court.*

9. *He can be in custody not merely when the police arrests him, produces him before a Magistrate and gets a remand to judicial or other custody. He can be stated to be in judicial custody when he surrenders before the court and submits to its directions.*

90. This proposition has been followed in ***State of Haryana and Others vs. Dinesh Kumar (2008) 3 SCC 222*** and in ***Sundeep Kumar Bafna vs. State of Maharashtra and Another (2014) 16 SCC 623*** though in different contexts.

91. In the State of *Haryana and Others vs. Dinesh Kumar* (supra) the respondents/applicants, seeking the job of Constables, were not offered the post for the reason of their having not made a correct disclosure with respect to the posers whether they had, in the past, been arrested or convicted by any Court for any offence.



92. In the case of one of the respondents, it was urged by him that in connection with a police case, he had surrendered before the Magistrate when he was granted bail. Thus, he was right in disclosing that he had never been arrested. Ultimately, the case against him ended in acquittal. His version was accepted by the High Court which directed for restoring the service of the said respondent.

93. However, in a similar circumstance, in the case of another such respondent, another Bench of the High Court took a different view that because of necessary information having been withheld by the respondent, he was not entitled to appointment. In this case also, the respondent was released on his personal bonds when he had surrendered before the Magistrate in connection with the police case.

94. The question therefore which fell for consideration before the Supreme Court was whether the manner in which those respondents had appeared before the Magistrate and had been released without being taken into formal custody could be treated as "arrest" for the purposes of answering the question put to them.



95. The same High Court had taken two different views of the matter.

96. In order to resolve this controversy the Supreme Court examined the concept of arrest and custody in connection with a criminal case.

97. The expression '*arrest*' is not defined either in Cr.P.C. or in any other enactment dealing with criminal offences.

98. Section 46 of the Code, however, only provides the manner of arrest.

"46. Arrest how made.—(1) In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action:

[Provided that where a woman is to be arrested, unless the circumstances indicate to the contrary, her submission to custody on an oral intimation of arrest shall be presumed and, unless the circumstances otherwise require or unless the police officer is a female, the police officer shall not touch the person of the woman for making her arrest.]

(2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for life.

(4) Save in exceptional circumstances, no woman shall be arrested after sunset and before sunrise, and where such exceptional circumstances



exist, the woman police officer shall, by making a written report, obtain the prior permission of the Judicial Magistrate of the first class within whose local jurisdiction the offence is committed or the arrest is to be made.]

99. Similarly the expression 'custody' has also not been defined in the Code. The views of the Supreme Court in *Niranjan Singh (supra)*, which we have extracted above, was relied upon in this case also. Anybody surrendering before a Court would be deemed to be in the custody of the Court for the Court to decide about the future course of action.

100. The only sequitur and the upshot of the above discussion is that a person who appears before a Court even under summons is deemed to be in the custody of the Court when it would depend upon the discretion of the Court to allow him bail or to remand him into custody.

101. Thus, the apprehension of being arrested in a non-bailable offence continues, notwithstanding only summons having been issued by the concerned Court, entitling the accused/petitioner to move for anticipatory bail in such case before the Sessions Court or the High Court.

102. For the second issue of reference *viz.* whether Additional Sessions Judge of any Sessions Division acting as a



Special Court, exercising powers of a Magistrate could be treated as Courts of Sessions for the purposes of Section 438 Cr.P.C.?, the learned Single Judge has held as follows :

61. We are required not only to protect the interest of the accused or their personal liberty but as a court of justice, we need to maintain a balance and protect the rights of the victims either dead or alive and their family members to get the justice against the wrongs done to them at the earliest and in the event we proceed in the manner aforesaid, it cannot be said anything doing contrary to the intention of legislature or the decisions earlier taken by the various Hon'ble Courts.

62. In such cases, specially, wherein the Sessions Judge or Additional Sessions Judge has to exercise original jurisdiction either as a general court or as a Special Judge, the applications under Section 438 Cr. P. C. if filed and entertained directly by this Court and only such applications for the offences, other than barred under the Act, may be preferred as first instance before Sessions Judge, may have some balance upon, not only wastage of time but also misuse of the privilege by the accused, causing hindrance in early disposal of the case, wherein, he is involved.

63. The legislature has chosen the High Court and Court of Sessions, not Courts of Sessions to entertain and decide application under Section 438 of the Code. Both the Courts have concurrent jurisdiction. One thing is also common that appeal and revision against the orders of the subordinate courts are also to be preferred before them.

64. In this light it can very well be said, the intention of legislature is to provide jurisdiction to entertain application under Section 438 of the Code to the courts having appellate jurisdiction against the matters arising out of the courts having jurisdiction.

65. It is undisputed that against any order of Additional Sessions Judges, no appeal can be preferred before the Sessions Judge. Taking into consideration this aspect, the legislature while deciding to give power of exercising original jurisdiction on a bit different and graver offences upon the persons having fit to be appointed as Sessions Judge, designated them as Special Judge under particular Act and they are to discharge the functions what in general law the Magistrate is to do, but appeal is to be preferred



against such Special Judges only before the High Court, not before the Sessions Judge of the Division. Here such precaution appears taken only because, in fact, Additional Sessions Judges are designated as Special Judge but since for the purpose of appeal or revision etc., they are not subordinate to the Sessions Judge, like other Magistrate including those also functions as Assistant Sessions Judges.

66. Thus, the intention of the legislature appears very much clear while introducing Section 438 in the Code empowers High Court and Court of Session instead of Courts of Session that only the authority having power to entertain and admit appeals can entertain such application arising out of the particular matter.

67. Thus, in my opinion, before Sessions Judge, the application under Section 438 of the Code can be filed only in connection with the matters where the Magistrate having original jurisdiction are subordinate to him but such application in connection with any other matter or in connection with the Special Courts, it is the High Court before which such application can directly be filed, but in no case, the courts having original jurisdiction including the Special Judge can entertain or decide the application under Section 438 of the Code.

103. For answering this poser, it would be first necessary to refer to Sections 4 and 5 of the Code of Criminal Procedure, 1973:

4. Trial of offences under the Indian Penal Code and other laws.—(1) All offences under the Indian Penal Code (45 of 1860) shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

(2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

5. Savings.—Nothing contained in this Code shall, in the absence of a specific provision to



the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

104. The savings clause in the Code (Section 5) makes it very clear that unless there is any negative prescription in the Code, the provisions contained therein shall not affect any special or local law or any special jurisdiction of power conferred or any special form of procedure prescribed by any other law for the time being in force. There are certain legislations where Special Courts have been created and have been clothed with the deemed status of such Courts as Court of Sessions.

105. The *N.D.P.S. Act, 1985* is one such instance. Section 36 (C) of the NDPS Act, 1985 provides that the Government may, for the purpose of providing speedy trial of the offence under the NDPS Act, by notification in the official Gazette, constitute as many Special Courts as may be necessary for such area or areas as may be specified in the notification. Even an Additional Sessions Judge is qualified for being appointed as a Judge of the Special Court and that the provision of the Code of Criminal Procedure, 1973 (including



the provisions as to bail with bonds) shall apply to the proceedings before a Special Court and for the purposes of the said provision, the Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Court, shall be deemed to be a Public Prosecutor.

106. Similarly, Special Judges for Prevention of Corruption Act (Section 5 thereof), Bihar Prohibition and Excise Act, 2016 (Section 85), The Prevention of Money Laundering Act, 2002 (Section 46), the Protection of Children from Sexual Offences Act, 2012 (Section 31), the National Investigation Agency Act, 2008 (Section 11), the Right of Persons with Disabilities Act, 2016 (Section 84) and SC/ST (Prevention of Atrocities) Act, 1989 (Section 14A) the Special Courts are deemed to be the Court of Sessions.

107. Thus, the Special Courts, even though they are not Sessions Judges, specifically have been clothed with the powers of the Sessions Court.

108. A question fell for consideration before the Full Bench of Patna High Court, Re. ***Ravi Nandan Sahay 1991***



SCC online Patna, 286 whether a Special Judge under the Prevention of Corruption Act, 1947 is entitled to exercise the power conferred on a Sessions Judge by Section 438 of the Cr.P.C. There were divergent views of the Single Judges of this Court which had necessitated this reference.

109. In one of the cases, a Single Judge had directed the Special Judge to consider the anticipatory bail application of the accused. In another case, for rejection of anticipatory bail by the Special Judge as having no jurisdiction, the matter was sent by the learned Single Judge for determination by a larger Bench.

110. The Full Bench after referring to Sections 4 and 5 of the Cr.P.C. held that the jurisdiction of Criminal Courts, other than those mentioned in the Cr.P.C., to try a particular offence or otherwise to deal with it, is derived from the statute which creates the Court or from the statute which defines the offence. From the provisions of the Code of Criminal Procedure, it is manifest that besides the four classes of Criminal Courts, it also contemplates constitution of Courts under any other law. A deeming fiction is generally



created in the statutes when the legislature intends to confer a status or an attribute to a particular Court which may not intrinsically be possessed by that Court sans such conferment.

111. The Full Bench explained thus that it is well settled that whatever an Act requires to be deemed or taken as true of a Court, it must be considered as having been done so. While correctly interpreting a provision creating legal fiction, a Court has to ascertain as to for what purpose the fiction has been created and only after ascertaining that, it has to assume all those facts and consequences which are inevitable for giving effect to such fiction. The Full Bench took note of the decision of the Supreme Court in ***A.R. Antulay vs. Ramdas Srinivas Nayal and Another AIR (1984) SC 718*** where one of the questions for consideration of the Bench was whether a Special Judge was empowered to take cognizance of an offence under the Prevention of Corruption Act, 1947 on a complaint. The Supreme Court had considered it necessary to decide with precision and accuracy the position of a Special Judge and the Court over which he presided, styled as the Court of a Special Judge, because unending



confusion had arisen by either assimilating him with a Magistrate or with a Sessions Court.

112. In *Antulay* (supra) it was held that a person appearing on behalf of a private complainant also shall be treated as a Public Prosecutor irrespective of the fact whether he possessed the qualification as provided under Section 24 of the Cr.P.C. or not.

113. If a person appearing on behalf of a private complainant in a proceeding before the Special Judge is given the status of a Public Prosecutor though he may not be qualified according to the Cr.P.C., there was no justification for holding that a Special Judge cannot exercise the powers of a Sessions Judge as provided under the Cr.P.C., which includes the power to entertain an application for anticipatory bail under Section 438 Cr.P.C.

114. It may be noted that a dissenting opinion was given by one of the Judges of Full Bench, who concluded that the Court of Special Judge is such a Court which for certain purposes, exercises powers and discharges the functions of a Judicial Magistrate, but in some other respect, it is exercises



even the powers of a District Judge. Obviously, a Court of Special Judge created by a separate enactment cannot squarely fall in anyone of the categories of the Courts contemplated by Section 6 of the Code.

115. A paragraph also was quoted by him from the judgment of the Supreme Court in ***State of Tamilnadu vs. V. Krishnaswami Naidu and Another (AIR 1979 SC 1255)*** wherein it was held that Special Judge in the Criminal Law Amendment Act is thus for some purposes deemed to be a Sessions Judge and for some other purposes, a Magistrate and some powers exercised by the Magistrate are conferred on him. It was necessary to note, the Supreme Court had observed that the Special Judge is empowered to take cognizance without the accused being committed and in trying the accused persons, he would be required to follow the procedure for trial of warrant case by a Magistrate. It was also stated in the dissent that only because appeals and revisions against the judgment and orders of the Special Judge would lie before the High Court and not before the Sessions Judge, that would by itself not be a ground strong



enough to hold that a Special Judge has, by necessary implication, powers or competence of entertaining a petition under Section 438 of the Cr.P.C. In the absence of any specific provision in the Prevention of Corruption Act providing either expressly or by necessary implication indicating so, the Parliament cannot be presumed to have even contemplated curtailment of any power of the Court of Sessions which was created by the Court and which, after the High Court, is the highest in the matter of administration of Criminal Justice in the concerned Sessions Division. The power under 438 of the Cr.P.C. is conferred only on the High Court and the Court of Sessions which is presided over by a Sessions Judge.

116. A parallel was drawn with the provision under the E.C. Act which specifies that the power of granting bail rests with the Special Court or the High Court. No such similar power is provided in the Prevention of Corruption Act and therefore it was wrong to presume that a Special Judge for the P.C. Act had the powers to entertain 438 application.

117. However, since this was the minority view, the decision of the Full Bench in its majority opinion *viz.* that a



Special Court has the powers to entertain 438 application, prevails.

118. A similar question was raised before another Full Bench of Calcutta High Court in ***Teru Majhi vs. State of West Bengal 2015 Cri. Law Journal 1017*** wherein question with respect to jurisdiction of Special Court constituted under the N.D.P.S. Act, 1985 to entertain anticipatory bail application was raised. On a threadbare consideration of the provisions of the N.D.P.S. Act, 1985 and the Cr.P.C., the reference was answered by the Full Bench that a Special Court constituted under Section 36 of the N.D.P.S. Act, 1985 was competent to entertain a pre-arrest bail petition under Section 438 of the Code of Criminal Procedure, 1973.

119. In one of the cases arising from Andhra Pradesh High Court at Hyderabad, as it then was (***Fakhuruddin Sharafali Ampanwala vs. State 1997 SCC online AP 499***), a question with a negative covenant was raised viz. whether an application for bail in anticipation of arrest under Section 438 of the Cr.P.C. could be moved



before the learned Sessions Judge, Hyderabad instead of Court of Special Judge of Economic Offences?

120. Here also, a Division Bench of the Court, taking reference of *A.R. Antulay* (supra) and in *Sri Ravi Nandan Sahay, Sessions Judge, Patna*, referred to above, held that the Special Court, although called the Special Court of a Judicial Magistrate of First Class is also a Court of Sessions and as Court of Sessions has the powers to act under various provisions under Chapter-XXXIII of the Cr.P.C. including Section 438 thereof. Once the Special Court has the jurisdiction in the matter, it would be creating a conflict of jurisdiction, if in addition to a Court of Session which is especially designated for such matters, the regular Court of Sessions also is recognized as one empowered to grant bail under Section 438 of the Cr.P.C.. Thus, the view of the Bench was that the jurisdiction of the Special Court of Economic Offence ought to retain the jurisdiction for all purposes including grant of anticipatory bail.

121. Thus, we answer the second poser that a Special Court, exercising the powers of a Magistrate so far as



taking of cognizance is concerned, is still a Sessions Court by a deeming fiction of law and therefore is entitled to entertain an application under Section 438 of the Cr.P.C.

122. The last of the questions posed by the learned Single Judge is whether an application under Section 438 of the Code, if filed before the Sessions Court in the first instance, could be filed again before the High Court.

123. Though the learned Single Judge has referred to a judgment of a Division Bench of this Court in ***Kusheshwar Prasad Singh vs. The State of Bihar, 1985 PLJR 247*** in which it has categorically been held that a person whose application for anticipatory bail has been rejected by the Court of Sessions has the liberty to move the High Court for the same relief, but still doubted the proposition on the plea that if such right is permitted to a litigant, it would only tantamount to abuse of the process of law and the noble object behind the introduction of the pre-arrest bail provision would stand frustrated.

124. We are at a loss to understand as to how the purpose of introduction of the section in the Code would stand



frustrated if under concurrent jurisdiction, bail application is moved before the High Court after the same has been rejected by the Sessions Court, especially in view of the practice prevalent that normally and advisedly, in the first instance, such application under 438 ought to be filed before the Sessions Court.

125. In *Kusheshwar Prasad Singh* (supra), the judgment in the case of ***Mohan Lal and others etc. vs. Prem Chand and others etc., AIR 1980 Himachal Pradesh, Full Bench, 36*** was referred to. In the aforesaid Full Bench of Himachal Pradesh, it fell for consideration whether it was incumbent upon an applicant to approach the Court of Sessions before moving the High Court. After considering the relevant provisions, the Full Bench of Himachal Pradesh High Court held that the option lies with the person concerned and he could not be forced to move the Sessions Judge first. He can move the High Court straightaway without moving the Sessions Court and such application will be maintainable. The logic was that the power



under Section 438 was concurrent which could be exercised by both the Courts in proper cases.

126. But a Full Bench of Allahabad High Court in ***Onkar Nath Agrawal and others vs. State 1976 Criminal Law Journal 1142***, while considering the question whether the applications for anticipatory bail could be moved in the High Court without taking recourse to the Court of Sessions, it held that the Courts have an unfettered discretion in the matter of bail under Section 438 to be exercised according to the exigency of each case and therefore an application in the High Court, without moving the Sessions Judge was maintainable.

127. On similar lines, in ***Amiya Kumar Sen vs. State of West Bengal, 1979 Criminal Law Journal, 288*** the Calcutta High Court found that the words in Section 438 viz., "***may apply to the High Court or the Court of Session***" indicated that the word "***or***" was a conjunction in between the High Court and the Court of Session and thus it was in the nature of an alternative *i.e.* to say that if a person



elects the forum of Sessions Court, he would not be entitled to move the High Court.

128. The Bench of Patna High Court however in *Kusheshwar Prasad Singh* (supra) did not accept the aforenoted interpretation and reasoning and held that as a matter of practice and propriety, the lower of the two Courts ought to be approached first.

129. In the new Code, the power of revision has not been made concurrent and therefore under Section 397(3), it has been laid down that if one Court was moved in its revisional jurisdiction, the other Court shall not entertain similar application. Similar bar has been introduced in Section 399(3) of the Code. The Bench, therefore, differing with the Division Bench of Calcutta High Court came to the conclusion that if there was no bar like 397(3) or 399(3) in Section 438, then by no stretch of imagination could it be said that power once exercised by the Sessions Judge became final and the person aggrieved cannot move the High Court. Had the intention of the Parliament been such, it would have prescribed similar bar in 438 of the Cr.P.C.



130. Section 439 of the Code dealing with the special powers of the High Court or the Court of Sessions regarding bail is also, to a great extent, concurrent. Under this provision, if a bail is rejected by the Court of Sessions, High Court is moved for the relief. Like Section 438, there is no specific provision under 439 that if bail is rejected by the Sessions Court, then only the aggrieved person can move the High Court. On the same analogy, it was held in *Kusheshwar Prasad Singh* (supra) that if a prayer for anticipatory bail is rejected by a Sessions Judge, the aggrieved person shall have a right to move the High Court.

131. In *Sibia* (supra) it was observed that there is no risk involved in entrusting a wide discretion to the Court of Sessions and the High Court in granting anticipatory bail because firstly; these are higher posts manned by experienced persons and secondly; their orders are not final but are open to appeal or revisional scrutiny and above all, because discretion has always to be exercised by the Courts judicially and not according to the whims, caprice or fancy.



132. Thus, in the absence of any provision in Section 438, debarring a person from moving the High Court when he has already moved the Sessions Court, it will amount to adding something in the statute which is neither there nor required.

133. As a summation of the entire discussion, we answer the posers as following:-

(i) An application under Section 438 Cr.P.C. is maintainable on behalf of a person who has only been summoned in a complaint case as the apprehension of being arrested in a non-bailable offence continues.;

(ii) A Special Court, exercising the powers of a Magistrate so far as taking of cognizance is concerned, is still a Sessions Court by a deeming fiction of law and, therefore, is entitled to entertain an application under Section 438 Cr.P.C. And,

(iii) After rejection of anticipatory bail application by the Sessions Court, an accused has a right to approach the High Court for grant of anticipatory bail.



134. The reference is answered accordingly.

135. The cases be transferred to the appropriate Benches for their disposal in the light of the answer given by the Bench.

136. Before we conclude, we must express our appreciation for the efforts taken by Mr. Ansul and Mr. Rajesh Shukla, the learned *Amicus*, who have insisted for assisting the Court *pro bono* in these matters.

137. We also appreciate the efforts of Ms. Surya Nilambari, the learned *Amicus*, for assisting us in these matters, who shall be paid an amount of Rs. 7,500/- towards her professional fee by the Legal Services Authority.

(Ashutosh Kumar, J)

I have had the privilege of going through the erudite judgment authored by my esteemed Brother Ashutosh Kumar, J in which the core issue in this Full Bench reference has been aptly addressed with quite precision and brilliance. With the sense of responsibility, I can say that the issues that had been raised in the reference have been carefully taken in seriatim and answered intrinsically by taking note of notable



verdicts/judgments, which authoritatively hold the field on the point in issue. I fully concur with the view expressed by my esteemed Brother Ashutosh Kumar, J.

(Harish Kumar, J)

I agree.

(Chandra Shekhar Jha, J)

krishna/-

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