

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10752 of 2023

Arising Out of PS. Case No.-14 Year-2022 Thana- RAJEPUR District- East Champaran

1. TAPENDRA BHARTI S/o Late Ramanand Bharti R/o Village- Narha Panapur, P.S.- Rajepur, Distt- East Champaran.
2. Raju Kumar Bharti @ Raju Bharti S/o Ram Padarath Bharti R/o Village- Narha Panapur, P.S.- Rajepur, Distt- East Champaran.
3. Radhesharan Bharti S/o Ram Padarath Bharti R/o Village- Narha Panapur, P.S.- Rajepur, Distt- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kundan Rathore@ Kundan Kumar, Adv.
For the Opposite Party/s : Mr.Ram Anurag Singh, APP.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 25-04-2023 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

Petitioners apprehend their arrest in Rajepur P.S. Case No. 14 of 2022 dated 13.01.2022, registered for an offence under Sections 447, 341, 323, 324, 379, 504, 506 & 34 of the Indian Penal Code, later on the charge sheet has been submitted u/s 341, 323, 307, 504, 506 & 34 of the Indian Penal Code and learned Court took cognizance u/s 341, 323, 307, 504, 506 & 34 of the Indian Penal Code.

As per the prosecution story, petitioners holding deadly weapons in their hand, came and started abusing and when the



informant raised objection, petitioners assaulted him and his family members.

Learned counsel for the petitioners submits that petitioners are innocent and have committed no offence and falsely implicated in present case due to dirty politics. He further submits that there is case and counter case between the parties and there is also compromise between the parties.

He further submits that petitioners were granted regular bail by the learned Court below prior to submission of charge sheet and cognizance was taken by learned Court below and the petitioners have not misused the liberty granted to them.

Learned APP for the State vehemently opposing the prayer for bail submitted that as the petitioners were earlier granted regular bail by learned Court below and in the view of ration laid down in the case of **Mahendra Prasad Singh Vs. The State of Bihar** reported in **2004 (3) PLJR 491**, this anticipatory bail is not maintainable.

Considering the submissions made behalf of the parties and the view taken in the case of **Mahendra Prasad Singh (supra)**, in which it is laid down that once the bail had been granted and bail bond executed at a later stage if the offence is treated as non-bailable, the applicant cannot file his application



for grant of anticipatory bail. The only remedy available to him is to surrender before the concerned Court. The Court concerned will grant him bail without taking him into custody, considering his conduct while on police bail and also that he has not misused the privilege of bail.

Hence, the prayer for anticipatory bail is dismissed as not maintainable.

However, if the petitioners surrender before the learned Court below within six weeks from today and seek regular bail, the learned Court below shall pass order in accordance with law without being prejudiced by this order on the very date of surrender without taking them into custody.

(Anjani Kumar Sharan, J)

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