

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12982 of 2023

Arising Out of PS. Case No.-399 Year-2019 Thana- AURANGABAD TOWN District-
Aurangabad

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1. Rampravesh Yadav @ Pravesh Yadav S/O Late Gunni Yadav R/V- Rajwari, P.S.- Aurangabad Town, District- Aurangabad
 2. Shambhu Yadav S/O Rampravesh Yadav @ Pravesh Yadav R/V- Rajwari, P.S.- Aurangabad Town, District- Aurangabad
 3. Prabhu Yadav S/O Rampravesh Yadav @ Pravesh Yadav R/V- Rajwari, P.S.- Aurangabad Town, District- Aurangabad
 4. Gopal Yadav @ Bam Yadav S/O Rampravesh Yadav @ Pravesh Yadav R/V- Rajwari, P.S.- Aurangabad Town, District- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukul Kumari
For the Opposite Party/s : Mr.Satyendra Prasad

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 28-04-2023 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners apprehend their arrest in Aurangabad Town P.S. Case No. 399 of 2019 registered for the offences punishable under Sections 341, 323, 504, 506 and 34 of the Indian Penal Code pending in the Court of learned A.C.J.M.-II, Aurangabad.

Learned counsel for the petitioner submits that no such occurrence as alleged ever took place. He has been falsely implicated in this case. The allegation levelled against the



petitioner is not specific rather general and omnibus in nature. He submits that earlier the petitioners have been granted regular bail by the learned CJM, Aurangabad, but after completion of investigation the I.O. has submitted charge-sheet u/s 341, 323, 307, 504, 506 and 34 of the IPC against the petitioners. Petitioners no. 1, 2 and 3 have got one criminal antecedent whereas petitioner no. 4 has got two criminal antecedents as mentioned in para-3 of the bail application.

Learned APP for the State opposes the prayer for anticipatory bail and submits that the anticipatory bail application is not maintainable.

From perusal of the impugned order, it appears that earlier the petitioners have been granted regular bail by the learned CJM, Aurangabad, but after completion of investigation the I.O. has submitted charge-sheet u/s 341, 323, 307, 504, 506 and 34 of the IPC against the petitioners, therefore, the petitioners have filed present anticipatory bail application.

It is settled principle of law that once the petitioner has been granted bail either by the police or by the Court, the petition under Section 438 of the Cr.P.C. on behalf of the petitioner is not maintainable.

In view of the matter, the present application is



disposed of with a direction to the petitioners to surrender before the learned Court below within six weeks from today and seek regular bail and the learned lower Court would consider the same without being prejudiced by this order in view of the ratio laid down in the case of *Mahendra Prasad Singh vs. The State of Bihar* reported in *2004(3)PLJR 491*.

With the aforesaid observation and direction, this application stands disposed of.

(Anjani Kumar Sharan, J)

anand/-

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