

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57708 of 2023

Arising Out of PS. Case No.-211 Year-2022 Thana- RAGHUNATHPUR District- Siwan

1. RAJ KISHORE CHAURASIYA @ RAJ KISHORE PRASAD SON OF UMA SHANKAR CHAURASIYA RESIDENT OF VILLAGE - KHUJWA, P.S. - RAGHUNATHPUR, DISTRICT - SIWAN
2. RAKESH CHAURASIYA @ RAKESH KUMAR PRASAD SON OF RAJ KISHORE CHAURASIYA RESIDENT OF VILLAGE - KHUJWA, P.S. - RAGHUNATHPUR, DISTRICT - SIWAN
3. SUJIT PRASAD @ SUJIT CHAURASIYA @ SUJIT KUMAR PRASAD SON OF SHAMBHU CHAURASIYA RESIDENT OF VILLAGE - KHUJWA, P.S. - RAGHUNATHPUR, DISTRICT - SIWAN

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. MAHAVIR PRASAD SONI SON OF LATE PARASNATH SONAR RESIDENT OF VILLAGE - KHUJWA, P.S. - RAGHUNATHPUR, DISTRICT - SIWAN

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar
For the Opposite Party/s : Mr. Jharkhandi Upadhyay

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 20-09-2023 1. Heard learned counsel for the petitioners and learned A.P.P. for the State along with the learned counsel for the informant.
2. Learned counsel for the petitioners submits that the present quashing application has been filed seeking quashing of the order dated 04.07.2023 passed by the learned Judicial Magistrate 1st Class, Siwan in Raghunathpur P.S. Case No. 211 of 2022 whereby process under Section 82 of the Cr.P.C. has been issued against the petitioners.
3. Learned counsel for the petitioners submits that an FIR came to be instituted against the petitioners being Raghunathpur P.S. Case No. 211 of 2022 dated 18.09.2022 under Sections 341, 323,



324, 307, 379, 504, 506 and 34 of the IPC, it is next submitted that the petitioner No. 1 moved before the learned Trial Court seeking anticipatory bail but the same was rejected by order dated 22.12.2022, thereafter, petitioner No. 2 and 3 also moved before the learned Trial Court seeking anticipatory bail but the same also came to be rejected by order dated 27.03.2023, thereafter, petitioner No. 1 moved before this Court seeking anticipatory bail by filing Cr. Misc. No. 7312 of 2023 and the same came to be rejected by an order dated 16.05.2023, it appears that the petitioner No. 2 and 3, after their anticipatory bail was rejected by the learned Trial Court, they chose to wait for the outcome of the anticipatory bail application filed on behalf of the petitioner No. 1 and after the anticipatory bail application of the petitioner No. 1 was rejected on 16.05.2023, the petitioner No. 2 and 3, thereafter, moved before this Court on 04.07.2023, it is next submitted that, thereafter, on 04.07.2023, the petitioner No. 1 again filed an anticipatory bail application before this Court which is pending adjudication and anticipatory bail petition of the petitioners No. 2 and 3 also is pending adjudication. It is further submitted that the date on which the petitioner No. 1 filed his second anticipatory bail application and the petitioner No. 2 and 3 filed their first anticipatory bail application, the process under Section 82 was issued i.e., on 04.07.2023 which is impugned in the present quashing application.

4. Learned counsel next submits that, no doubt, the



procedure envisaged under the Cr.P.C. was followed before issuing the process under Section 82 Cr.P.C. but then the petitioners were availing their remedies available in law, as such, the order dated 04.07.2023 whereby process under Section 82 Cr.P.C. has been issued be quashed.

5. Learned counsel for the informant opposes the quashing application and submits that what is not in dispute rather stands admitted is that the anticipatory bail application of the petitioner No. 1 was rejected by this Court by an order dated 16.05.2023 (Annexure-2) and thereafter, again he filed a second anticipatory bail application on 04.07.2023 which is pending adjudication, it is next submitted that the petitioner No. 2 and 3, after their anticipatory bail application was rejected by the learned District Court on 27.01.2023, they chose not to approach this Court within a reasonable time nor surrendered before the learned Trial Court, rather, filed their anticipatory bail application on 04.07.2023 and it was in between the period 22.12.2022-04.07.2023 that the learned Trial Court, after following the mandate as envisaged under the Code issued process under Section 82 having no other option.

6. The Court finds force in the submission of the learned counsel for the informant as it has been submitted that the petitioner No. 1, anticipatory bail application was rejected by this Court on 16.05.2023, as such, he ought to have surrendered or moved before the Hon'ble Supreme Court seeking relief but instead of resorting to



such remedies, he again filed a second anticipatory bail application on 04.07.2023 which is not mandated, further, petitioner No. 2 and 3 after their anticipatory bail application was rejected by the learned Trial Court on 27.01.2023, they chose not to surrender nor they approached this Court within a reasonable time seeking anticipatory bail, as such, the Court does not find any merit in the present quashing application.

7. Accordingly, the present quashing application stands rejected.

(Satyavrat Verma, J)

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