

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55445 of 2022

Arising Out of PS. Case No.-143 Year-2020 Thana- DAUDNAGAR District- Aurangabad

1. SHEOPUJAN YADAV @ SHIVPUJAN YADAV Son of Late Sitaram Yadav @ Sitaram Singh R/V- Shankar Bigha, P.S- Daudnagar, Dist- Aurangabad
2. Shyamvijay Kumar Yadav @ Shyamvijay Kumar Son of Gulabchand Yadav @ Gulabchand Singh R/V- Shankar Bigha, P.S- Daudnagar, Dist- Aurangabad
3. Bhagwaniya Devi Wife of Sheopujan Yadav @ Shivpujan Yadav R/V- Shankar Bigha, P.S- Daudnagar, Dist- Aurangabad
4. Lalita Devi @ Lalti Devi Wife of Ranvijay Yadav R/V- Shankar Bigha, P.S- Daudnagar, Dist- Aurangabad
5. Ranvijay Yadav Son of Gulabchand Yadav @ Gulabchand Singh R/V- Shankar Bigha, P.S- Daudnagar, Dist- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh, Advocate
For the Opposite Party/s : Mrs. Renu Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 20-01-2023 Heard learned counsel for the petitioners and Mrs. Renu Kumari, learned APP for the State.

The petitioners apprehend their arrest in connection with Daudnagar P.S. Case No. 143 of 2020 for the offence registered under Sections 147, 149, 341 and 307/34 of the Indian Penal Code.

As per the prosecution story, the allegation is that when the informant was getting his land measured for



construction of house, the co-sharer, accused persons including the petitioners herein came variously armed and assaulted them. In the process, the informant and his wife received injuries.

Learned counsel for the petitioners submit that earlier Section 307 of the I.P.C. was not there and the Case was under bailable sections. Thus, the police had granted bail to them which was never misused. However, the learned SDJM, Daudnagar took cognizance under sections 147, 149, 341 and 307/34 of the Indian Penal Code necessitating fresh prayer for anticipatory bail and after rejection the same by the learned Additional Sessions Judge-X, Aurangabad, the present petition has been filed.

In this connection, it is important to take note of the case of **Mahendra Prasad Singh Vs The State of Bihar** reported in **2004 (3) PLJR 491**. Paragraph nos. - 4 & 5 of the judgment is relevant which reads as under :-

“On considering the relevant provision in the Code of Criminal Procedures, this Court is of the opinion that had the FIR been only for bailable offences and had the petitioner been granted benefit of bail by the police for bailable offences only under the provisions of Section 436 of the Cr.P.C. the matter could have stood on



different footing. On account of offence being treated as non-bailable at the later stage due to subsequent developments, may be an application for anticipatory bail could have been found maintainable. However, in the present case which is falling for consideration this Court is of the view that since the case was initially for non-bailable offences wherein the petitioner was taken into custody and then released on bail by the police, an application for anticipatory bail on the ground that he has an apprehension of arrest in the same case cannot be held to be maintainable.

5. In the facts of the case, petitioner must honour the terms of police bail and appear before the Court without any delay. In case, petitioner appears before the Court below within six weeks then the Court below shall consider his prayer for bail in accordance with law keeping in view the well established principle that a person who is already on bail shall not be denied such privilege unless there is any allegations of misuse etc. With this observation this application for anticipatory bail is disposed of.”

Taking into account the aforesaid facts, this Court is of the considered view that if the petitioners present themselves



before the concerned Court within four weeks and file petition for grant of bail the same shall be considered and disposed of preferably on the same day. While passing the order, the learned Court below shall take into account the fact that after lodging of the FIR, the police had granted bail which according to the learned counsel for the petitioners were never misused by them.

With the aforesaid observation, the anticipatory bail application stands disposed of.

(Rajiv Roy, J)

Jagdish/Neha/-

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