

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78782 of 2023

Arising Out of PS. Case No.-231 Year-2019 Thana- SHEOHAR District- Sheohar

1. Roop Lal Ram Son Of Late Bhola Ram Public Fair Price Shop Keeper, Nagar Panchayat, Sheohar, Village - Nagar Panchayat Sheohar, Ward No.5, P.S. And District - Sheohar
2. Kamal Kant Tiwary Son Of Late Sakaldeo Tiwary Resident Of Village - Paharpur, Ward No.17, P.S. And District - Sheohar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dinesh Jha, Adv.
For the Opposite Party/s : Mr. Jagdhar Prasad, APP.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 11-12-2023 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. Petitioners apprehend their arrest in connection with Sheohar P.S. Case No. 231 of 2019 dated 12.10.2019, registered for an offence u/s 188, 406, 409 and 420/34 of the Indian Penal Code and u/s 3 of E.C. Act, later on the charge sheet has been submitted u/s 188, 406, 409 and 420/34 of the Indian Penal Code and u/s 3 of E.C. Act.

3. As per the prosecution case, allegation against the petitioners is of running shop unauthorisely and distributing the food grains among the consumers with the intention of black marketing.



4. 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 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.

5. 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.

6. 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 but 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 them 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.

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

8. 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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