

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1020 of 2023

Arising Out of PS. Case No.-202 Year-2019 Thana- NATHNAGAR District- Bhagalpur

1. Prabir Mukherjee Son Of Sri Shankarshan Mukherjee @ Shankrishnan Mukharjee R/O Mohalla- Champanagar, P.S.- Nathnagar, District- Bhagalpur
2. Satyajeet Mukherjee Son Of Sri Shankarshan Mukherjee @ Shankrishnan Mukharjee R/O Mohalla- Champanagar, P.S.- Nathnagar, District- Bhagalpur
3. Pulak Mukherjee @ Pullok Mukharjee Son Of Sri Shankarshan Mukherjee @ Shankrishnan Mukharjee R/O Mohalla- Champanagar, P.S.- Nathnagar, District- Bhagalpur
4. Indrajeet Mukherjee Son Of Sir Shankarshan Mukherjee @ Shankrishnan Mukharjee R/O Mohalla- Champanagar, P.S.- Nathnagar, District- Bhagalpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Adv. Mr.Lakshmi Kant Sharma, Adv.
For the Opposite Party/s :		Mr.Amitesh Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 15-03-2023 Heard Mr. Ramakant Sharma, learned senior counsel assisted by Mr. Lakshmi Kant Sharma for the petitioners and Mr. Amitesh Kumar, learned APP for the State assisted by learned counsel for the informant.

The petitioners are apprehending their arrest in a case registered for the offence punishable under Sections 341, 323, 354B, 504 and 506/34 of the Indian Penal Code pending in the learned court below.



All the accused persons entered into the premises of the informant and abused her and threatened to rape her. Thereafter, all the accused persons assaulted her and when her mother came to save her accused-petitioner Satyajeet Mukherjee dragged and abused her.

Learned senior counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. He further submits that the present case is a counter blast of Nathnagar P.S. Case No.203 of 2019. The petitioners and the informant are relatives and are living in the same premises and are on inimical terms since long. He further submits that petitioners have got five criminal antecedents as stated in para-3 of the bail application.

Learned APP for the State assisted by learned counsel for the informant vehemently opposing the prayer for bail submitted that earlier the bail application of the petitioner was dismissed as withdrawn on 11.04.2022 passed in Cr. Misc. No. 621/2022. He submits that the petitioners were granted Police bail and relied upon the judgment of this Hon'ble Court passed in **Mahendra Prasad Singh Vs. The State of Bihar** reported in **2004 (3) PLJR 491**. It is further submitted that processes Section 82 & 83 Cr.P.C. has been issued against the petitioners,



therefore, anticipatory bail application is maintainable.

It is an admitted fact that the petitioners were granted Police bail and considering the order passed by this Hon'ble Court in the case of **Mahendra Prasad Singh (supra)**, it is well settled principle of law that once the petitioners have been granted bail either by the police or by the Court, the petition under Section 438 Cr.P.C. on behalf of the petitioners is not maintainable.

Considering the facts and circumstances of the case, this anticipatory bail application sans merit and is, accordingly, dismissed.

The petitioners are directed to surrender before the learned Court below and the learned Court below shall pass order in view of the judgment passed in the case of **Mahendra Prasad Singh (supra)**.

(Anjani Kumar Sharan, J)

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