

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79141 of 2023

Arising Out of PS. Case No.-156 Year-2022 Thana- ABADPUR District- Katihar

1. ASHATHAMI DAS @ ASHATHAMI KUMARI WIFE OF BISHANU KUMAR DAS RESIDENT OF VILLAGE - HORNAROI, P.S. - ABADPUR, DISTRICT - KATIHAR
2. BISHANU KUMAR DAS SON OF LATE KHAGENDRA NATH DAS RESIDENT OF VILLAGE - HORNAROI, P.S. - ABADPUR, DISTRICT - KATIHAR
3. BISHAMBHAR DAS SON OF NARESH CHANDRA DAS RESIDENT OF VILLAGE - HORNAROI, P.S. - ABADPUR, DISTRICT - KATIHAR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajit Kumar Singh, Adv.

For the Opposite Party/s : Mr.Rana Randhir Singh, APP.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 13-12-2023 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 341, 323, 307, 324, 504, 506, 34 of the Indian Penal Code.

3. Learned counsel for the petitioners submits that petitioners were earlier granted 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.



4. Learned APP for the State vehemently opposing the prayer for bail submitted that as the petitioners were earlier granted bail by learned Court below and in the view of ratio 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.

5. 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, and 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 him is to surrender before the concerned Court and 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.

6. Accordingly, this application stands dismissed as not maintainable.

7. 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.

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

(Anjani Kumar Sharan, J)

divyanshi/-

U		T	
---	--	---	--

