

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32974 of 2024

Arising Out of PS. Case No.-37 Year-2024 Thana- Mehendiya District- Arwal

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1. Ravindra Saw Son of Ram Swarup Saw Resident of Village- Nai Bazar, Ward No. 10, P.S.- Mehendiya, Dist.- Arwal
 2. Mamta Devi Wife of Ravindra Saw Resident of Village- Nai Bazar, Ward No. 10, P.S.- Mehendiya, Dist.- Arwal
 3. Akshay Kumar Son of Ravindra Saw Resident of Village- Nai Bazar, Ward No. 10, P.S.- Mehendiya, Dist.- Arwal
 4. Balu Kumar Son of Ravindra Saw Resident of Village- Nai Bazar, Ward No. 10, P.S.- Mehendiya, Dist.- Arwal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar Pandey, Advocate
For the Opposite Party/s : Mr. Uday Chand Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 28-08-2024 Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel appearing on behalf of the informant.

2. The petitioners apprehend their arrest in connection with Mehendiya P.S. Case No. 37 of 2024, dated 16.02.2024 registered for the offences punishable under Sections 341, 323 and 308/34 of the Indian Penal Code.

3. Learned counsel for the petitioners submits that petitioners are persons with clean antecedent.

4. Learned A.P.P., at the outset, submits that the offences for which the instant FIR has been instituted against the petitioners carry punishment of less than seven years.



5. The said submission of the learned A.P.P. is not disputed by the learned counsel appearing on behalf of the petitioners.

6. Learned counsel for the petitioners further submits that investigation in the case against the petitioners is still going on but then petitioners have not been given the benefit of Section 41(a) of the Cr.P.C., on which learned A.P.P. submits that the case be disposed of in terms of the order dated 13.02.2024 passed in Cr. Misc. No. 3536 of 2024 (Naushad Ansari Vs. The State of Bihar).

7. In view of the submissions made by the learned A.P.P., the anticipatory bail application is disposed of in terms of the order dated 13.02.2024 passed in Cr. Misc. No. 3536 of 2024.

8. The petitioners would be at liberty to file a representation before the concerned Superintendent of Police and the Investigating Officer of the case within a period of three weeks from today with a web copy of the order dated 13.02.2024 passed in Cr. Misc. No. 3536 of 2024 and the concerned Superintendent of Police shall ensure that the Investigating Officer of the case strictly adheres to the direction contained in the said order dated 13.02.2024 passed in Cr. Misc. No. 3536 of 2024.

9. Learned counsel for the petitioners, at this stage, submits that the learned District and Sessions Judge, Jehanabad acts mechanically. It is further submitted that this Court by order



dated 13.02.2024 passed in Cr. Misc. No. 3536 of 2024 has clearly directed as to how an accused is to be treated against whom an F.I.R. is instituted carrying punishment of seven years and less and the order dated 13.02.2024 further records the consequences of its breach but then the learned District and Sessions Judge, Jehanabad even without verifying as to whether the petitioners were given the benefit of Section 41(a) of the Cr.P.C. or not rejected the anticipatory bail application of the petitioners.

10. The Court completely concurs with the submissions of the learned counsel appearing on behalf of the petitioners but then fails to appreciate the conduct of the Superintendent of Police, Jehanabad and the investigating officer of the case as to why benefit of Section 41(a) of the Cr.P.C. was not given to the petitioners in compliance of the order dated 13.02.2024 passed in Cr. Misc. No. 3536 of 2024.

11. The Court, for the present, restrains itself from passing any adverse order against the learned District and Sessions Judge, Jehanabad, the Superintendent of Police, Jehanabad and the investigating officer of the case, but then directs them to download the order dated 13.02.2024 passed in Cr. Misc. No. 3536 of 2024 (Naushad Ansari Vs. The State of Bihar) for their perusal.

12. The Court expects that next time, such mechanical order would not be passed by the learned District and Sessions



Judge, Jehanabad and the Superintendent of Police, Jehanabad and the investigating officer of the case shall remain careful and shall ensure that the order dated 13.02.2024 passed in Cr. Misc. No. 3536 of 2024 (Naushad Ansari Vs. The State of Bihar) is not breached with impunity, failing which, the Court would be constrained to initiate departmental/contempt proceeding against the erring officials.

13. Let a copy of this order be sent to the learned District and Sessions Judge, Jehanabad and the Superintendent of Police, Jehanabad for their perusal and onward communication of the order to the investigating officer of the case for necessary action.

(Satyavrat Verma, J)

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