

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56091 of 2024

Arising Out of PS. Case No.-296 Year-2024 Thana- AURANGABAD TOWN District-
Aurangabad

1. Dharmendra Mehta Son Of Late Deepnarayan Mehta R/O- Muhalla-
Shahpur, Ward No. 27, P.S.- Aurangabnad, Distt.- Aurangabad
2. Munilal Yadav Son Of Late Tapeswar Yadav R/O- Muhalla- Shahpur, Ward
No. 27, P.S.- Aurangabnad, Distt.- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Singh, Advocate
For the Opposite Party/s : Mr. Bharat Bhushan, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 18-11-2024 Learned counsel for the petitioner submits that during
pendency of this case the petitioner was granted privilege of
police bail.

2. It is settled principle of law that once the petitioner has
been granted bail either by the police or by the Court, the
petition under Section 438 Cr.P.C. on behalf of the petitioner is
not maintainable.

3. In that view of the matter, the present application is
disposed of with a direction to the petitioner to surrender before
the learned Court below within six weeks from today and seek
regular bail and the learned lower Court would consider the
same without being prejudiced by this order in view of the ratio
laid down in the case of *Mahendra Prasad Singh Vs. The State
of Bihar* reported in *2004 (3) PLJR 491*. In this decision, it was
held that once the bail had been granted and bail bond executed,



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. The Court concerned will grant him bail without taking into custody, considering his conduct while on police bail and also that he has not misused the privilege of bail.

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

(Anjani Kumar Sharan, J)

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