

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53624 of 2024

Arising Out of PS. Case No.-415 Year-2016 Thana- MUFFASIL District- West Champaran

1. Subhash Paswan Son of Late Baliram Paswan R/O Vill.- Semra Parsa, P.s.- Sirisiya O.P., Dist.- West Champaran
2. Parshuram Paswan Son of Late Dharmi Paswan R/O Vill.- Semra Parsa, P.s.- Sirisiya O.P., Dist.- West Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Brij Kishor Mishra
For the Opposite Party/s : Mr.Md. Ataur Rahman

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 31-08-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners apprehend their arrest in Bettiah Muffasil Manuapool P.S. Case No. 415 of 2016 registered for the offences punishable under Sections 354, 457, 504/34 of the Indian Penal Code.

3. Learned counsel for the petitioners submits that petitioners were granted bail by the learned Court below, thereafter charge sheet has been submitted under Sections 341, 323, 457, 376, 511, 504/34 of the I.P.C. and the learned Court below has taken cognizance under Sections 341, 323, 457, 376, 511, 504/34 of the IPC.

4. 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 of the Cr.P.C. on behalf of the petitioner is not maintainable.

5. In view of the matter, the present application is disposed of with a direction to the petitioners 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 has been granted and the 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 and 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.

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

(Anjani Kumar Sharan, J)

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