

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74100 of 2023

Arising Out of PS. Case No.-255 Year-2022 Thana- MAHUA District- Vaishali

1. Sitaram Singh S/O- Late Rangi Singh @ Ranjeet Singh Village- Bishanpur Bejha Ps- Mahua Dist- Vaishali
2. Sunita Devi Wife Of Sitaram Singh Village- Bishanpur Bejha Ps- Mahua Dist- Vaishali
3. Vinay Kumar Son Of Sitaram Singh Village- Bishanpur Bejha Ps- Mahua Dist- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Alok Kumar Alok
For the Opposite Party/s : Mr.Ramesh Chandra

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

5 12-07-2024 Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners apprehend their arrest in connection with Mahua P.S.Case No. 255 of 2022 registered for the offences under Sections 304(B), 120B/34 of the Indian Penal Code.

3. At the very outset, the learned APP has submitted that the process under Section 83 of the Cr. P.C. has been issued, as it appears from Letter No. 83, dated 10.01.2024 sent by the Superintendent of Police, Vaishali to this Court and in view of the recent decision in the case of Prem



Shankar Prasad vs. State of Bihar and Another (2021 SCC online SC 955), the petitioners are not entitled for anticipatory bail.

4. Taking the aid of the orders dated 16-01-2019, 15-12-2021 & 04-07-2022 passed by co-ordinate benches of this Court in Cr. Misc. Nos. 75288 of 2018, 1118 of 2021 & 38750 of 2021 respectively, it has been submitted by learned counsel for the petitioner that since the application under Section 438 of the Cr.P.C. has already been filed before issuance of processes under Sections-82 & 83 of the Cr.P.C., the present application is maintainable.

5. Having taken into consideration the view taken by the coordinate benches of this court, I differed with the same and passed an order dated 14-12-2022 in Cr. Misc. No. 31565 of 2022 dealing with the aforesaid orders. Relevant part of the order dated 14-12-2022 passed by this court in Cr. Misc. No. 31565 of 2022 is extracted hereinbelow:

“.....As already mentioned, it has been argued on behalf of the petitioner that anticipatory bail petition was filed before issuance of process under section 82 of the ‘Code’. In this respect, my humble view is that the decisions of the Hon’ble



Supreme Court in the case of Lavesb v. State (NCT of Delhi) (supra) and in the case of Prem Shankar Prasad vs. the State of Bihar and another (supra) does not make any distinction whether anticipatory bail petition is filed before or after passing of order under section 82 of the 'Code'. Merely because the petitioner has preferred anticipatory bail petition prior to order passed under section 82 of 'the Code', it does not ipso facto make him entitle to the privileges for anticipatory bail."

6. Considering the aforementioned facts and circumstances as well as the decisions as-referred-above, I am not inclined to grant the privilege of anticipatory bail to the petitioners, which is hereby rejected.

7. If the petitioners surrender and seek regular bail before the court below, their bail application shall be disposed of on its own merit, without being prejudiced by this order.

(Nawneet Kumar Pandey, J)

Arish/-

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

