

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74629 of 2024

Arising Out of PS. Case No.-63 Year-2022 Thana- RAUTA District- Purnia

1. Md. Shamshad @ Shamshad @ Shamshad Alam Son of Late Md. Ilyas Village- Sirsi, Ps- Rauta, Dist- Purnea
2. Hajil Alam @ Hajil @ Md. Hajil son of Late Mohuddin Village- Sirsi, Ps- Rauta, Dist- Purnea
3. Shamser Alam @ Samsir son of Late Md. Ilyas Village- Sirsi, Ps- Rauta, Dist- Purnea
4. Md. Izahar @ Izahar Alam @ Izhar Son of Late Md. Ilyas Village- Sirsi, Ps- Rauta, Dist- Purnea
5. Bibi Sanjaria @ Sanjari Begum @ Sanjari Wife of Hajil Alam @ Hajil @ Md. Hajil Village- Sirsi, Ps- Rauta, Dist- Purnea

... .. Petitioners.

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar, Advocate
For the Opposite Party/s : Mrs. Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 30-10-2024 At the very outset, learned counsel for the
petitioners submits that petitioners are on police bail.

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

3. In that 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 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 them bail without taking into custody, considering their conduct while on police bail and also that they have not misused the privilege of bail.

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

(Anjani Kumar Sharan, J)

Trivedi/-

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

