

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39616 of 2019

Arising Out of PS. Case No.-431 Year-2017 Thana- SIKARPUR District- West Champaran

1. MITHU DAS Son of Late Sahdeo Das, Resident of Village - Roari, P.S.- Shikarpur, Distt - West Champaran.
2. Rajesh Das Son of Sri Mithu Das, Resident of Village - Roari, P.S.- Shikarpur, Distt - West Champaran.
3. Suresh Das Son of Sri Mithu Das, Resident of Village - Roari, P.S.- Shikarpur, Distt - West Champaran.
4. Ganesh Das Son of Sri Mithu Das, Resident of Village - Roari, P.S.- Shikarpur, Distt - West Champaran.
5. Seema Devi Wife of Sri Ganesh Das, Resident of Village - Roari, P.S.- Shikarpur, Distt - West Champaran.
6. Sugawati Devi Wife of Rajesh Das, Resident of Village - Roari, P.S.- Shikarpur, Distt - West Champaran.
7. Rampratiya Devi @ Imartiya Devi Wife of Sri Mithu Das, Resident of Village - Roari, P.S.- Shikarpur, Distt - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma
For the Opposite Party/s : Mr.Satyendra Prasad

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 28-06-2019 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

In this case, the petitioners are seeking anticipatory bail in connection with Shikarpur P.S. Case No. 431 of 2017 registered for offence punishable under sections 147, 149, 323, 324 and 379 of the Indian Penal Code.

Without going into the merit of the case, earlier the court below had granted bail to the petitioner on surrender and later on, the police has found the charge to be true under section 307 of the



Indian Penal Code, accordingly, the charge sheet has been submitted in other section including 307 of the Indian Penal Code whereupon Chief Judicial Magistrate has cancelled the bail of the petitioner.

The learned counsel for the petitioner submits that while the petitioner was on bail, he never misused the privilege of bail.

In such view of the matter, in view of judgment reported in **2004 (3) PLJR 491, Mahendra Prasad Singh vs. the State of Bihar** and **2008 (3) PLJR 268, Kripanand Prasad @ Karun Yadav** and others, the petitioner should have been granted bail by the court below itself.

The learned counsel for the State submits, as the petitioner has earlier granted bail, and later on, the police has submitted the charge sheet, in such circumstance, the petitioner should surrender and make prayer for bail before the court below itself.

As the petitioner has not misused the privilege of bail, hence in the event of surrender, the court below will consider the aforesaid judgment and take a decision in accordance with law.

With the above observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Mahesh/-

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

