

(2021) 04 PAT CK 0090

Patna High Court

Case No: Criminal Miscellaneous No. 33987 Of 2020

Ram Babu Sahni And Ors

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: April 13, 2021**Acts Referred:**

- Indian Penal Code, 1860 - Section 147, 148, 149, 283, 323, 332, 341, 379, 427, 431, 353, 504
- Code Of Criminal Procedure, 1973 - Section 438(2)

Hon'ble Judges: Ahsanuddin Amanullah, J**Bench:** Single Bench**Advocate:** Raju Kumar, Tapeshwar Sharma**Final Decision:** Disposed Of

Judgement

1. The matter has been heard via video conferencing.
2. Heard Mr. Raju Kumar, learned counsel for the petitioners and Mr. Tapeshwar Sharma, learned Additional Public Prosecutor (hereinafter referred to as the "APP" for the State).
3. The petitioners apprehend arrest in connection with Saraiya PS Case No. 34 of 2017 dated 02.02.2017, instituted under Sections 147/148/149/341/323/379/283/427/332/431/353/504 of the Indian Penal Code.
4. This is the second attempt for anticipatory bail, as, though earlier such prayer was allowed by a co-ordinate bench by order dated 27.04.2018 passed in Cr. Misc. No. 21262 of 2018, but because the petitioners did not surrender within four weeks, he had filed Cr. Misc. No. 2734 of 2020 for

extension of time, but the same was dismissed by a coordinate bench by order dated 26.02.2020 on the ground that near about two yearsâ€™ time had already elapsed.

5. The allegation against the petitioners is that on instigation of co-accused Nawal Kishor Kumar @ Nawal Kishor Sahni and three others, the

petitioners, who were part of a mob, had started damaging the vehicles and committing vandalism and loot and had also blocked the road causing

difficulty for ambulance and others vehicles and are named among 26 persons and there are 200 unknown persons also accused of obstructing the

police from discharging their duty.

6. Learned counsel for the petitioners submitted that there is no specific allegation of committing any overt act and the petitioners are only part of a

mob and further that no injury has been caused to anyone as also there has been no recovery from the petitioners. It was submitted that the petitioners

do not have any criminal antecedent and are labourers and being unaware of the earlier order could not surrender and take bail. It was submitted that

earlier the Court was convinced about the merit of the matter and had granted anticipatory bail.

7. Learned APP submitted that the petitioner despite having been granted bail had not surrendered in time.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender

before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five

thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate 1st, West, Muzaffarpur

in Saraiya PS Case No. 34 of 2017, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that

one of the bailors shall be a close relative of the petitioners, (ii) that the petitioners and the bailors shall execute bond with regard to good behaviour of

the petitioners, and (iii) that the petitioners shall cooperate with the Court/police/prosecution. Any violation of the terms and conditions of the bonds or non-cooperation would lead to cancellation of their bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court

concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners.

10. The application stands disposed off in the aforementioned terms.