

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 6569 of 2021

Arising Out of PS. Case No.-113 Year-2020 Thana- KATIHAR MUFFASIL District- Katihar

1. Tuntun Kumar @ Tantan Kumar, aged about 20 years, Gender-Male, Son of Birendra Singh.
2. Bharat Singh, aged about 30 years, Gender-Male.
3. Bablu Kumar, aged about 20 years, Gender-Male.
Both sons of Sitaram Singh.
4. Pramod Kumar, aged about 21 years, Gender-Male, Son of Umesh Singh.
All residents of village- Udama Rekha, PS- Muffasil, District- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bimal Kumar, Advocate
For the State : Mr. Sanjay Kumar Sharma, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 06-08-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioners on 02.08.2021, which was allowed.

3. Heard Mr. Bimal Kumar, learned counsel for the petitioners and Mr. Sanjay Kumar Sharma, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioners apprehend arrest in connection with Muffasil PS Case No. 113 of 2020 dated 01.05.2020, instituted under Sections 188, 269, 323, 447, 307, 353 and 504/34 of the Indian Penal Code.



5. As per the FIR, when the informant, who is a constable, caught some boys from assembling at a place and smoking cigarette during the lock-down period, he was assaulted by brick which injured him and two persons were arrested and the motorcycle was also detained and then it is alleged that about 10 to 15 villagers, including the petitioners, came and forcibly freed and took away the arrested two persons from the custody of the police.

6. Learned counsel for the petitioners submitted that the petitioners have been made accused without any justification as they had no role in the occurrence. Moreover, it was submitted that the identification of the police has also not been disclosed and the only allegation against them, along with others, is that they have managed to take away the two arrested boys who were caught by the police and no overt act has been alleged against them. It was submitted that Vijay Kumar @ Vinay Kumar, who was detained and had named Vijendra Kumar as one of the persons who was along with him, have been granted anticipatory bail by order dated 27.07.2021 passed in Cr. Misc. No. 2902 of 2021. Further, it was submitted that the petitioners have no other criminal antecedent.



7. Learned APP submitted that the petitioners had got two accused who were arrested by the police released forcibly and clearly are guilty of such offence.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the allegation being only that the petitioners along with many others had come and had taken away the two arrested persons without there being any allegation of any assault or overt act or causing any damage to either any person or property as also the fact that they have no criminal antecedent and one of the boys who was arrested as also his accomplice have been granted anticipatory bail, the Court is inclined to grant pre-arrest bail to the petitioners.

9. Accordingly, 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 Judicial Magistrate, 1st Class, Katihar in Muffasil PS Case No. 113 of 2020, 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 also give an undertaking to the Court that they shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of their bail bonds. The petitioners shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of their bail bonds.

10. 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.

11. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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