

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13997 of 2014

Arising out of PS.Case No. -137 Year- 2013 Thana -NIMCHAKBATHANI District- GAYA

- =====
1. Sidhi Yadav Son of Ram Balak Yadav
 2. Shambhu Yadav Son of Sidhi Yadav
 3. Jai Yadav @ Ajay Yadav, Son of Shiv Dahin Yadav
 4. Dinesh Yadav, Son of Late Sadhu Saran Yadav
 5. Jeetan Yadav Son of Late Sadhu Saran Yadav
- All resident of village- Kasibigha, P.S- Nimchak Bathani, District- Gaya.
6. Sakaldeep Yadav @ Sakaldeo Yadav Son of Late Mahavir Yadav
- resident of village -Chandachak, P.S- Nimchak Bathani, District- Gaya.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Durgesh Nandan, Advocate.

For the Opposite Party/s: Mr. R.N.Jha, APP

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 07-01-2015 Heard learned counsel for the parties.

The prayer for grant of anticipatory bail of the petitioner no. 2 Shambhu Yadav and petitioner no. 6 Sakaldeep Yadav @ Sakaldeo Yadav, has become infructuous as they have already been arrested.

Learned counsel for the petitioners, as with regard to prayer for anticipatory bail of the rest of the four petitioners, namely, petitioner no. 1 Sidhi Yadav, petitioner no. 3 Jai Yadav @ Ajay Yadav, petitioner no. 4 Dinesh Yadav and petitioner no. 5 Jeetan Yadav, has submitted that though they have also faced prosecution for offence under Sections 307/504 as also other allied

offences of the Indian Penal Code and under Section 27 of the Arms Act, but then there is vague and omnibus allegations against all of them in relation to an occurrence for which there is also a counter case being Nimchak Bathani P.S. Case No. 138/2013 for similar offence under Sections 307/504 and other allied offences of the Indian Penal Code and under Section 27 of the Arms Act.

Learned counsel for the State, on the other hand, has pointed out that not only the petitioner nos. 3 & 4, namely, Jai Yadav @ Ajay Yadav and Dinesh Yadav respectively have criminal antecedent but also in the injury report, the informant and his brother are found to have sustained simple injuries. He has, accordingly, submitted that once the petitioners themselves claim that there is a counter case version of the same occurrence, the occurrence at least becomes admitted and therefore, if there has been free fight leading to injuries on both the sides and the most of the accused other side have also not been granted privilege of anticipatory bail, the petitioners also will not be entitled of such privilege of anticipatory bail.

In the considered opinion of this Court, such submission of learned counsel for the State has to be accepted only because if there is a case and counter case and the occurrence becomes admitted, the accused persons of both sides face the same

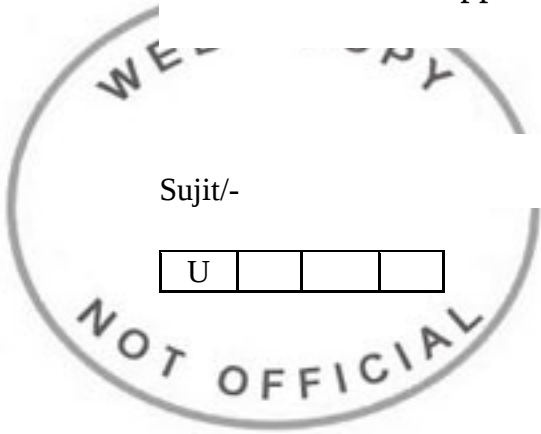
prosecution.

Presently, from the supervision note, it becomes very clear that seven of the accused persons of the counter case were taken into custody on 01.12.2013 and, therefore, the prayer of the petitioners for grant of anticipatory bail both on account of criminal antecedent on the part of the petitioner nos. 3 and 4 as also injuries established from the medical report on the person of informant and his brother in the present case cannot be allowed.

That being so, the prayer for anticipatory bail of petitioner nos. 1, 3, 4 and 5 namely Sidhi Yadav, Jai Yadav @ Ajay Yadav, Dinesh Yadav and Jeetan Yadav respectively is hereby rejected, but then whatever has been observed by the learned Sessions Judge, Gaya in his order dated 18.01.2014 in A.B.P. No. 84/14 while rejecting their prayer for anticipatory bail will still remain operative.

In other words, if the petitioners, namely, petitioner no. 1 Sidhi Yadav, petitioner no. 3 Jai Yadav @ Ajay Yadav, petitioner no. 4 Dinesh Yadav and petitioner no. 5 Jeetan Yadav surrender within a period of four weeks from today, their prayer for regular bail shall be considered and disposed of on the same footing as has been done in the cases of the accused persons of other counter case.

With the aforesaid observations and directions this application is disposed of.



(Mihir Kumar Jha, J)