

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35910 of 2015

Arising Out of PS.Case No. -58 Year- 2009 Thana -SIMRA District-
WESTCHAMPARAN(BETTIAH)

Surendra Kushwaha son of Kedar Bhagat, resident of village- Katkuiya,
Banjaria, P.S. Semra, District- West Champaran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

With

Criminal Miscellaneous No.41827 of 2015

Arising Out of PS.Case No. -58 Year- 2009 Thana -SIMRA District-
WESTCHAMPARAN(BETTIAH)

Ishahaque Baitha @ Isahak Mian Son of Late Musafir Baitha resident of
village - Katkuiya Banjariya, Police Station - Semara, District - West
Champaran

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.35910 of 2015)

For the Petitioner/s : Mr. Vijay Kr Singh No. 1

For the Opposite Party/s : Mr. A.Dayal(App)

(In Cr.Misc. No.41827 of 2015)

For the Petitioner/s : Mr. Milind Kumar Mishra

For the Opposite Party/s : Mr. Satyendra Narayan Singh(App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 07-09-2015

Heard learned counsels for the petitioners

and the State.

The petitioners are apprehending their arrest in a case registered for the offences punishable under Sections 302 and 120B/34 of the Indian Penal Code.

The FIR was registered in 2009 to the effect that the brother of the informant Lalbabu Kushwaha being a police informer went in the company of the petitioners, who were Chaukidars of the concerned police station and thereafter he went missing. Though, in the accusation part in the FIR they were named but in formal part the FIR reflects that it has been lodged against unknown. On conclusion of the investigation the petitioners were not sent up for trial but now they have been summoned in exercise of jurisdiction under Section 319 of the Cr.,P.C.

It is submitted by learned counsel for the petitioners that the petitioners were neither named in the FIR nor their name figured in the final form submitted by the police on conclusion of the investigation but now only on suspicion at the fag end of the trial of co-accused the petitioners are sought to be made accused in exercise of jurisdiction under Section 319 Cr.P.C. It is further submitted that the petitioners shall regularly

appear before the learned court below.

It is submitted by learned counsel for the informant that in the accusation part in the FIR the petitioners were named as the persons in whose company the brother of the informant left his house but they were not made accused in the FIR since they were Chaukidars of the concerned police station and hence, they were not sent up for trial, but during trial evidence has come that they were seen taking liquor in the company of the brother of the informant.

Considering the fact that the petitioners have been summoned in exercise of jurisdiction under Section 319 of the Cr.P.C. but the evidence has not been deliberated which actually persuaded the learned trial court to summon the petitioners, let the above named petitioners be released on anticipatory bail in the event of their arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned 3rd Additional Sessions Judge, Bagaha, District – West Champaran in connection with Sessions Trial No. 280 of 2011 arising out of Semra P.S. Case No. 58 of 2009, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The learned trial court will be at liberty to
cancel the bail bonds of the petitioners, if they default for two
consecutive occasions.

(Dinesh Kumar Singh, J)

DKS/-

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