

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42214 of 2014

Arising Out of PS.Case No. -921 Year- 2011 Thana -COMPLAINT CASE District- JAMUI

1. Jamal Ansari, son of Late Subham Ansari
2. Sahdeo Mistri @ Sahdeo Saw, Son of Late Faguni Saw
3. Khursid Ansari son of Jamal Ansari.

All Resident of Village - Bambuara, Police Station - Halsi, Distt. –
Lakhisarai Petitioners

Versus

The State of Bihar Opposite Party

With

Criminal Miscellaneous No.43230 of 2014

Arising Out of PS.Case No. -921 Year- 2011 Thana -COMPLAINT CASE District- JAMUI

1. Syed Aquil Ahmad, Son of Late Zainuddin Ahmad, Resident of Village -
Charyari, Police Station - Sheikhpura, District - Sheikhpura at present
Banpur, P.S. - Khaira, District - Jamui
2. Shahabuddin Ansari @ Mintu, Son of Late Kamal Ansari, Resident of
Village - Banpur, P.S. - Khaira, District – Jamui Petitioners

Versus

The State of Bihar Opposite Party

Appearance :

(In Cr.Misc. No.42214 of 2014)

For the Petitioner/s : Dr. Amrendra Kumar, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

(In Cr.Misc. No.43230 of 2014)

For the Petitioner/s : Mr. Binay Kumar, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

For the Informant : Mr. Amrendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 20-03-2015

Since both these cases for anticipatory bail arise out of a common complaint, they have been heard together and are being disposed of by a common order.

The respective petitioners in both these cases apprehend their arrest in Complaint Case No. 921C/2011 in which cognizance has been taken under Section 302 read with 34 of the Indian Penal Code by the learned Judicial Magistrate-1st Class, Jamui.

It has been contended that for an occurrence which is alleged to have taken place on 20th July, 2002, a complaint case bearing no. 680C/2002 was filed on 19.09.2002 in the Court of the learned Chief Judicial Magistrate, Jamui. The said complaint was referred to the police under Section 156(3) of the Code of Criminal Procedure for investigation pursuant to which Khaira P.S. Case No. 85 of 2002 was registered on 9.10.2002 under Section 364 read with 34 of the Indian Penal Code against the petitioners. The said case was investigated upon by the police and on conclusion of investigation a final report was submitted by the police under Section 173(2) of the Code of Criminal Procedure on 31st July, 2007 in the Court of learned Chief Judicial Magistrate, Jamui. In the said final report, the police had



also recommended for prosecution of the informant of the case under Section 182 and 311 of the Indian Penal Code for launching a false prosecution. While the case was still under investigation, a complaint in the form of protest was filed by the informant of the case on 2.1.2003. After the submission of the final report, the Magistrate concerned accepted the final report and directed for institution of a complaint on the basis of protest petition filed by the informant of the case. Accordingly, the instant complaint was instituted in which after examining the complainant on oath and examining some other witnesses in course of inquiry under Section 202 of the Code of Criminal Procedure, the learned Magistrate took cognizance of the offence.

Learned counsel for the respective petitioners have argued that the entire prosecution case has been launched maliciously by the complainant of the case.

On the other hand, learned counsel appearing on behalf of the complainant has vehemently opposed the prayer for anticipatory bail. He has submitted that as the Court has taken cognizance of the offence under Section 302 of the Indian Penal Code, the petitioners do not deserve privilege of anticipatory bail.

Regard being had to the facts and circumstances of the case, in the event of arrest or surrender in the court below within a period of four weeks from today, let the petitioners, Jamal Ansari, Sahdeo Mistri @ Sahdeo Saw and Khursid Ansari of Cr. Misc. No. 42214 of 2014 and Syed Aquil Ahmad and Shahabuddin Ansari @ Mintu of Cr. Misc. No. 43230 of 2014 be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of Sri B.K. Singh, learned Judicial Magistrate 1st Class, Jamui in connection with Complaint Case No. 921C of 2011 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J.)

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