

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4647 of 2015

Arising Out of PS.Case No. -73 Year- 2014 Thana -AKBARNAGAR District- BHAGALPUR

Keshav Kumar @ Sonu Kunwar @ Sonu Son of Sri Sudama Kunwar
Resident of Village -Barhi Bhawnathpur, P.S- Akbarnagar, in the district of
Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Commandant, C.R.P.F.

.... Opposite Party/s

with

Criminal Miscellaneous No.10323 of 2015

Arising Out of PS.Case No. -73 Year- 2014 Thana -AKBARNAGAR District- BHAGALPUR

1. Niroj Kunwar Son of Late Pramod Kunwr, Resident of Village -
Chhoti Bhagwanpur, Police Station - Akbar Nagar in the district of
Bhagalpur.
2. Niwas Kunwar,
3. Sudama Kunwar,
Both Sons of Sri Chhedi Kunwar, Resident of Village - Bari
Bhagwanpur, Police Station - Akbar Nagar in the district of Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Commandant, C.R.P.F.

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.4647 of 2015)

For the Petitioner/s : Mr. Prabhu Narayan Sharma, Adv.
For the Opposite Party/s : Mr. Bhanu Pratap Singh(APP)
For the O.P. No.2 : Mr. Anshay Bahadur Mathur, CGC

(In Cr.Misc. No.10323 of 2015)

For the Petitioner/s : Mr. Prabhu Narayan Sharma, Adv.
For the Opposite Party/s : Mr. Madhuranand Jha(APP)
For the O.P. No.2 : Mr. Anshay Bahadur Mathur, CGC

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER



2. The petitioners, facing prosecution for offence under Section 302, 147, 148, 149 of the Indian Penal Code and Section 27 of the Arms Act, while claiming privilege of anticipatory bail, come out to say that they have been implicated in an out and out false case primarily on the ground of land dispute and previous litigation. Additionally, on behalf of the petitioner, Keshav Kumar @ Sonu Kunwar @ Sonu (petitioner of Cr. Misc. No. 4647 of 2015), it was claimed that on the date of occurrence i.e. on 6.11.2014, he, being employed in C.R.P.F. as a Constable, was on duty at a far off place at Rajgir and, therefore, his implication was only made with a vengeance to destabilize the family on account of the petitioner Keshav Kumar @ Sonu Kunwar @ Sonu being the earning family member.

3. This Court on an earlier occasion, apart from calling a case diary, had also thought it necessary to have a report of the concerned C.R.P.F. authority and, as such, an order was passed on 2.7.2015, relevant portion whereof reads as follows:-

“Call for a report from the Commandant, CRPF Mokama along with original documents showing that the petitioner was present on duty on 06.11.2014 at Mokama. In such report, the Commandant, CRPF, Mokama shall also point as to when and if at all the petitioner has given an information of his being involved as main assailant in relation to Akbarnagar P.S. Case No. 73 of 2014 and if such information was given by the petitioner, whether he

has been placed under suspension and if not why?"

4. Pursuant thereto, learned counsel for the Commandant, C.R.P.F., who has also been made party to the anticipatory bail application, has sought to rely on the report of the Principal/DIGP, Recruit Training Centre, C.R.P.F., Rajgir dated 5.9.2015 which has been placed at Flag-B. From perusal of the same, this Court is prima facie satisfied that a false report has been submitted by the Principal/DIGP, Recruit Training Centre, C.R.P.F., Rajgir because in one part of the report, it is being said that the petitioner Keshav Kumar @ Sonu Kunwar @ Sonu was sanctioned 8 days casual leave with effect from 25.10.2014 to 5.11.2014 and that he had reported on duty on 6.11.2014 at 8 AM but on the other hand in the attendance sheet being extract of the attendance register of the month of November, 2014, it is clearly mentioned that Keshav Kumar @ Sonu Kunwar @ Sonu was on leave up to 6.11.2014. As a matter of fact, the attendance of Keshav Kumar in the date of 6.11.2014 has also been marked "P" in a different handwriting other than such "P" has been marked in his attendance register on dates from 7.11.2014 onwards in the same attendance register. That apart even in the leave and duty certificate he is shown to be on leave as on 06.11.2014 and was to report for duty only in the evening of 6.4.2014.



5. This Court, therefore, will have great difficulty in accepting the plea of alibi of the petitioner Keshav Kumar @ Sonu Kunwar @ Sonu of his being on duty at Rajgir on 6.11.2014 but, then, it would not like to finally conclude the matter because such plea of alibi still has to be proved by the accused at the time of trial by leading evidence in court.

6. Considering all these aspect of the matter as also in view of the direct allegation against the petitioner Keshav Kumar @ Sonu Kunwar @ Sonu of gunning down the deceased, this Court is not inclined to grant privilege of anticipatory bail to him.

7. Accordingly, the prayer for anticipatory bail of the petitioner, namely, Keshav Kumar @ Sonu Kunwar @ Sonu is rejected.

8. The rest of the petitioners in Cr. Misc. No. 10323 of 2015, having in fact no allegation against them in the F.I.R. same except to be the member of the unlawful assembly would, however, be entitled for privilege of anticipatory bail and, therefore, if the petitioners, namely, Niroj Kunwar, Niwas Kunwar and Sudama Kunwar surrender before the court below within a period of four weeks from today, they shall be released 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



Smt. Aniudita Singh, learned Judicial Magistrate, 1st Class, Bhagalpur in connection with Akbar Nagar P.S. Case No. 73 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

- (i) That both the bailors will be a close relative of the petitioners, who will undertake an affidavit giving genealogy as to how they are related with the petitioners. The bailors will also undertake to inform the court if there is any change in the address of the petitioners.
- (ii) That the bailors shall also state on affidavit that they will inform the court concerned, if the petitioners are implicated in any other case of similar nature after their release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.
- (iii) That the petitioners will be well represented on each and every date in course of trial and if they fail to do so on two consecutive dates, their bail will be liable to be cancelled on this ground alone.

9. Before parting with, this court will not only records its displeasure against both the commandant C.R.P.F., Mokama as well as Principal/DGP Recruit Training Centre C.R.P.F., Rajgir for submitting a false report regarding the presence of the petitioner on duty on 6.11.2014 and would direct the Director

General of C.R.P.F., New Delhi to get an enquiry conducted by some senior officer in the rank of Inspector General, not presently posted in the State of Bihar and on the basis of the same submit his own report to this Court fixing responsibility on the erring official(s) of C.R.P.F. at Mokama and Rajgir found responsible for producing a collusive and/or false report at Flag-B with a view to mislead this court and a design to bestow illegal favour and protection to the petitioner Keshav Kumar facing serious allegation of being the main accused in a case of murder under Section 302 I.P.C. This exercise must be completed by the Director General, C.R.P.F. within a period of one month from the date of receipt of this order.

10. With the aforesaid observations and directions these applications are disposed of.

11. Let a copy of this order be handed over to the learned counsel for the Commandant, C.R.P.F. for its compliance in letter and spirit by the Director General, C.R.P.F., New Delhi.

(Mihir Kumar Jha, J)

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