

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24776 of 2013

Arising Out of PS.Case No. -149 Year- 2012 Thana -PANDAU District- MADHUBANI

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Bharat Bhushan @ Bharat Bhushan Yadav, son of Lekhnath Yadav,
resident of Village-Batauri, P.S.-Pandaul, District-Madhubani

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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with

Criminal Miscellaneous No.27876 of 2013

Arising Out of PS.Case No. -149 Year- 2012 Thana -PANDAU District- MADHUBANI

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Md. Babloo @ Sajid Hussain S/O Rasid Hussain Resident Of Village Sakari
Darbar Tola, P.S. Sakari, District Madhubani, Bihar.

.... Petitioner

Versus

The State Of Bihar

.... Opposite Party

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Appearance :

(In Cr.Misc. No.24776 of 2013)

For the Petitioner : Mr.

For the Opposite Party : Mr. Indu Kumari Srivastava(App)

(In Cr.Misc. No.27876 of 2013)

For the Petitioner : Mr.

For the Opposite Party : Mr. Md.Ansarul Haque(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

13 22-04-2015

Earlier the anticipatory bail applications of the petitioners filed during pendency of anticipatory bail applications before learned Sessions Judge were disposed of vide Cr. Misc. Nos. 11018 of 2013, 15027 of 2013 on 08.03.2013 with a direction to the learned Sessions Judge to dispose of the anticipatory bail application of the petitioner. Hence, the matters have been placed before this Court.

The petitioners are apprehending their arrest

in a case registered for the offences punishable under Sections 147, 148, 149, 302, 307, 324, 120-B of the Indian Penal Code, Section 27 of the Arms Act and Section 3/5 of the Explosive Substances Act.

The prosecution case got initiated on the fardbeyan of the informant Md. Jasim, wherein it is alleged that on 30.06.2012 the informant was sleeping in the house when he heard sound of bomb explosion and firing. He came out and heard the voice of Md. Kalam and Md. Shamsul who while searching Md. Kalam were saying that he is not on the roof of the house. They directed other accused persons to search Md. Kalam. The informant, thereafter came out of the house and concealed himself and saw Md. Kalam, Md. Nasirul, Md. Jahangir, Md. Suleman, Md. Karim, Md. Islam along with 30-40 persons variously armed entering into the house of the informant and opening fire, as a result Md. Ali and Md. Nasim died with gunshot injuries on the spot when several others received injuries including Md. Rashid @ Md. Samim and Md. Hakim who subsequently succumbed to the injuries in D.MC.H. The First Information Report was registered against twelve accused persons. The petitioners were not named in the First Information Report. Subsequently their complicity sprang up during investigation as the persons who conspired in hatching the plan to commit the offence as they were on inimical terms with the informant.

It is submitted by learned counsel for the petitioners that petitioners were neither named in the First Information Report nor the informant who claims to be an eye witness to the occurrence suggested their names in subsequent statement and only during investigation the suspicion was raised against the petitioners.

It is submitted on behalf of Md. Babloo @ Sajid Hussain that petitioner has no criminal antecedent.

It is submitted on behalf of the informant that the witnesses during investigation have suggested the name of the petitioners as the persons who conspired with the main accused persons. However, this fact has not been denied that the informant being present in the house when the occurrence took place, neither identified the petitioners though, known from before or suggested their names in the fardbeyan or in the subsequent statement.

It is further submitted by learned counsel for the informant that petitioner Bharat Bhushan @ Bharat Bhushan Yadav is accused in five other cases. This fact has not been controverted by learned counsel appearing on behalf of petitioner Bharat Bhushan @ Bharat Bhushan Yadav but learned counsel submits that all the cases are of petty nature as petitioner is the Vice-Chairman of Zila Parishad, hence due to political vendetta the accusation has been levelled.

Considering the criminal antecedent of the

petitioner Bharat Bhushan @ Bharat Bhushan Yadav, this Court is not inclined to grant anticipatory bail to the petitioner Bharat Bhushan @ Bharat Bhushan Yadav. But, on merits, this Court is prima facie of the view that it is a case for consideration of regular bail. Let learned Court below consider the prayer for regular bail of the petitioner Bharat Bhushan @ Bharat Bhushan Yadav, if the petitioner surrenders within a period of six weeks and pray for regular bail in connection with Pandaul P.S. Case No. 149 of 2012, pending in the Court of learned Chief Judicial Magistrate, Madhubani.

Accordingly the application with regard to petitioner Bharat Bhushan @ Bharat Bhushan Yadav stands disposed off.

So far as petitioner Md. Babloo @ Sajid Hussain is concerned, since he is not named in the F.I.R and learned counsel for the State or the informant after going through the case diary failed to bring to the notice of this Court any substantial evidence collected during investigation against this petitioner, let the petitioner, Md. Babloo @ Sajid Hussain, in the event of his arrest or surrender before the Court below within a period of 12 weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Madhubani in connection with Pandaul P.S. Case No. 149 of 2012, G.R. No.

1890 of 2012, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The bail bonds of petitioner Md. Babloo @ Sajid Hussain shall be accepted on filing affidavit to the effect that he will cooperate in the investigation. Non-cooperation in the investigation will give liberty to the prosecution to file appropriate application for cancellation of bail of the petitioner.

Shageer/-

(Dinesh Kumar Singh, J)

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