

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42293 of 2015

Arising Out of PS.Case No. -88 Year- 2010 Thana -SIMRI District- BUXAR

- =====
1. Sumeshwar Kunwar @ Someshwar Kunwar, son of Late Chandradeo Kunwar
 2. Shailendra Kunwar son of Surendra Kunwar
 3. Surendra Kunwar son of late Kashi Kunwar
 4. Ramashankar Kunwar son of Vyas Kunwar
 5. Narendra Kunwar @ Nagendra Kunwar son of late Kasho Kunwar
 6. Ranjit Kunwar son of late Chandradeo Kunwar
 7. Dinesh Kunwar @ Dinesh Kumar son of late Prabhu Kunwar All are Resident of village- Dumri, P.S.- Simri (Dist- Buxar).

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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with

Criminal Miscellaneous No.45695 of 2015

Arising Out of PS.Case No. -88 Year- 2010 Thana -SIMRI District- BUXAR

- =====
1. Shree Kant Kunwar @ Bhutaki Kunwar @ Bhutaki Kumar S/o Bikrama Kunwar
 2. Vijay Kunwar S/o Gopal Kunwar Both are resident of village - Dumari, P.S. Simri, Distt. - Buxar

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.42293 of 2015)

For the Petitioner/s : Mr. Satyendra Narayan Singh

For the Opposite Party/s : Mr. Sadanand Paswan(App)

(In Cr.Misc. No.45695 of 2015)

For the Petitioner/s : Mr. Shailendra Kumar Choubey

For the Opposite Party/s : Mr. Rita Verma (App)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

2 08-10-2015 Heard learned counsel for the petitioners and learned counsel for the State.

In these two applications filed under Section 438 of the Code of Criminal Procedure, the petitioners seek anticipatory bail in

connection with Simri P.S. Case No. 88 of 2010 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 324, 307, 325, 452, 380, 354 of the Indian Penal Code and 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

It is contended that though the petitioners were named in the FIR, the Police found the allegations to be false against them during investigation and accordingly while submitting charge sheet against the other accused persons, the petitioners were not sent up for trial. However, the learned Magistrate has taken cognizance of the offence differing with the police report. It is further contended that some other co-accused persons, namely, Harendra Kuwar, Arun Kuwar, Kamal Kuwar, Sheojee Kuwar, Gopal Kuwar and Anand Kumar have already been granted anticipatory bail by different orders passed by this Court. It is also submitted that in the facts and circumstances of the case, the ingredients of the offence punishable under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act would not be attracted as against the petitioners.

Learned counsel for the State has opposed the prayer for anticipatory bail. She has submitted that the learned Magistrate has taken cognizance of the offence alleged against the petitioners

differing with the police report. However, she concedes that the case of the petitioners stands on the better footing than those of the other co-accused who were charge-sheeted by the police and who have been granted anticipatory bail by this Court.

Taking into consideration the facts and circumstances of the case, in the event of arrest or surrender before the court below within four weeks from today, the petitioners, namely, Sumeshwar Kunwar @ Someshwar Kunwar, Shailendra Kunwar, Surendra Kunwar, Ramashankar Kunwar, Narendra Kunwar @ Nagendra Kunwar, Ranjit Kunwar and Dinesh Kunwar @ Dinesh Kumar of Cr.Misc. No. 42293 of 2015 and the petitioners, namely, Shree Kant Kunwar @ Bhutaki Kunwar @ Bhutaki Kumar and Vijay Kunwar of Cr. Misc. No. 45695 of 2015 are directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Buxar in connection with Simri P.S. Case No.88 of 2010, 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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