

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18069 of 2015

Arising Out of PS.Case No. -72 Year- 2015 Thana -KAHALGAON District- BHAGALPUR

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1. Shankar Yadav S/o Late Bachan Yadav
 2. Bittu @ Bittu Yadav @ Chandra Shekhar Yadav son of Shankar Yadav
 3. Jai Kant Yadav son of Mukti Yadav
 4. Deppak Yadav @ Deepak Kumar Yadav son of Shankar Yadav
 5. Pravesh Yadav @ Ram Pravesh Yadav son of Nitlal Yadav
- All are resident of village- Pankhoria, P.S. Rasulpur, District- Bhagalpur
6. Jagdish Yadav S/O Ganpat Yadav
- Resident of village- Firozpur, P.S. Mahagama, Distt. Godda (Jharkhand)
- Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Advocate.

For the Opposite Party/s : Mr. Abhay Kumar-I(APP)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

4 17-08-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under Sections 147, 148, 149, 323, 324, 307, 379, 448 and 506 of the Indian Penal Code and the fact that there is no direct allegation of any specific overt act against the petitioner nos. 2, 3, 4 and 5, namely, Bittu @ Bittu Yadav @ Chandra Shekhar Yadav, Jai Kant Yadav, Deepak Yadav @ Deepak Kumar Yadav and Pravesh Yadav @ Ram Pravesh Yadav respectively, this Court, taking into account that they have also got no criminal antecedent, would find them entitled for grant of privilege of anticipatory bail, but then the same privilege cannot be given to the petitioner nos. 1 and 6, namely, Shankar Yadav and Jagdish Yadav.

Since the anticipatory bail of the petitioner no. 6, namely

Jagdish Yadav stands rejected on account of his being arrested, this Court will have now adopt the same yardstick even with regard to the petitioner no. 1 keeping in view that there were three injuries on the side of the prosecution whereas whatever injury has been shown against the petitioner no. 1 that may be easily manufactured in the alleged altercation between the parties leaving the occurrence still to be admitted.

In that view of the matter, the prayer for anticipatory bail of the petitioner no.1 is hereby rejected. He must surrender before the court below and seek regular bail and if he does so, the prayer for regular bail of the petitioner no. 1 shall be considered on its own merit without being prejudiced in any manner by this order.

If, however, the petitioner nos. 2, 3, 4 and 5 , namely, Bittu @ Bittu Yadav @ Chandra Shekhar Yadav, Jai Kant Yadav, Deepak Yadav @ Deepak Kumar Yadav and Pravesh Yadav @ Ram Pravesh Yadav respectively 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/- each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, Bhagalpur in connection with Kahalgaon (Rasalpur) P.S.Case No. 72 of 2015; subject to the following conditions:

- (i) That both the bailors will be close family relatives 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 addresses of the petitioners.

(ii) That the affidavit shall clearly state that the petitioners are not accused in any other case and if they are, they shall not be released on bail.

(iii) 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 their bail on the ground of misuse.

(iv) 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.

(Mihir Kumar Jha, J)

Sujit/-

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