

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48060 of 2015

Arising Out of PS.Case No. -108 Year- 2015 Thana -SIRDALA District- NAWADA

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1. Krishna Yadav, son of Suhdeo Yadav
2. Arvind Kumar
3. Dharmendra Kumar
Petitioner no. 2 and 3 sons of Krishna Yadav,
All are residence of village- Purandih, P.S.- Sirdalla Meskaur District-
Nalanda.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Yogesh Chandra Verma, Sr.Adv.
Mr. Anuj Kumar, Adv.

For the Opposite Party/s : Mrs. Meena Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 29-01-2016

Heard.

The petitioners apprehend their arrest in a criminal prosecution registered under Sections 307/149 and some other allied offences under the Indian Penal Code.

It is submitted by the learned senior counsel appearing on behalf of the petitioners that there is a case and counter case from both the sides vide Annexure-1 and 2 respectively and the case lodged from the side of the petitioners was earlier, whereafter the present criminal prosecution was lodged vide Annexure-1. Therefore, the petitioners should be granted the privilege of anticipatory bail.

The learned Addl.P.P. has opposed the prayer for anticipatory bail and has pointed out that there is a specific allegation of assault against the petitioners in the FIR vide Annexure-1.

Taking into consideration the fact that the petitioner no.1 Krishna Yadav and the petitioner no.2 Arvind Kumar are alleged to have used sharp cutting weapon for causing injury on the head of the informant and his father respectively, this Court is not inclined to accede to the prayer for grant of anticipatory bail made on behalf of the petitioner nos.1 and 2. Accordingly, their prayer for anticipatory bail in connection with Sirdalla (Meskaur) P.S. Case No.108 of 2015 pending in the court of learned C.J.M., Nawada is rejected.

However, if they surrender in the court below within a period of one month from today and apply for regular bail, then the same shall be considered and decided on its own merits without being prejudiced by the rejection of their prayer for anticipatory bail by the present order.

So far petitioner no.3 Dharmendra Kumar is concerned, as per the prosecution version itself, he is not alleged to have used any sharp cutting weapon, though he is alleged to have assaulted the family members of the informant by lathi as a result of which the injured persons are said to have sustained simple injury on their person, this Court is inclined to accede to the prayer for anticipatory bail made on behalf of the petitioner no.3. Accordingly, his prayer for anticipatory bail is allowed.

In the event of his arrest or surrender in the court below within a period of four weeks from today, let the petitioner no.3 Dharmendra Kumar be enlarged on bail on furnishing bail bond of Rs. 25,000/- with two sureties of the like amount each to the satisfaction of learned C.J.M., Nawada in connection with Sirdalla (Meskaur) P.S. Case No.108 of 2015, subject to the condition as laid down under Section 438(2) of the Cr.P.C. and

subject to further conditions that:

(A) One of the bailors must be government servant or close family members of the petitioner, who will file an affidavit in the court below showing his/her relationship with the petitioner,

(B) if the petitioner is found involved in same and similar nature of cases in future, then in that case the informant/prosecution shall be at liberty to file a petition for cancellation of bail of the petitioner, and if such a petition is filed, the court below would be obliged to dispose of the same in accordance with law after giving opportunity of hearing to all concerned;

(C) the petitioner shall make regular pairvi in the court below in the present case either by appearing himself in person or through representation by his lawyer on each and every date, and if on two consecutive dates petitioner fails to make pairvi, then the court below shall be at liberty to cancel the bail bond of the petitioner.

(Birendra Prasad Verma, J)

Arvind/-

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