

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43203 of 2016

Arising Out of PS.Case No. -16 Year- 2016 Thana -BALIA District- BEGUSARAI

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1. Govind Kumar Rastogi son of Madan Rastogi
 2. Hare Ram son of Raju Sah
 3. Manish Kumar @ Manish Kumar Sah son of Raju Sah
 4. Arjun Paswan son of Doman Paswan
 5. Babloo Chaudhary son of Saheb Chaudhary
 6. Sanjay Kumar Chaudhary @ Sanjay Chaudhary son of Raju Chaudhary
- All are residents of Village Satichaura, P.S.Ballia, District Begusarai
- Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur, Advocate
For the Opposite Party/s : Mr. Umanath Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 06-10-2016

Heard the parties.

The petitioners, 6 in number, apprehend their arrest in a criminal prosecution registered under Section 353 and some other bailable offences under the Indian Penal Code.

As per prosecution case, on account of death of a minor boy aged about 10 years due to bus accident a mob of about 400-500 persons assembled there and they all put the bus in question on fire. It is also alleged that the assembled persons were raising slogans against the local police and created obstructions in discharging their official duties.

The learned counsel appearing on behalf of the petitioners submits that though, the petitioners are named in the First Information report, vide Annexure-1, as accused, but the allegations against them are general and omnibus in nature. He further submits that as per the prosecution case also a mob of about 400-500 persons had assembled there on account of death

of a minor boy on the spot due to bus accident and they were protesting and raising slogans against the carelessness of the local administration and the rash driving of the bus resulting into death of a minor boy. It is also submitted that the petitioners had no mens rea to commit the crime in question. It is highlighted that there is no specific allegation against any of the petitioners for specifically assaulting any police personnel and allegation against them are general and omnibus in nature. It is further contended that the petitioners are men of fair antecedent and have no other criminal case except the present one pending against them.

The learned Addl.P.P. appearing on behalf of the State though has opposed the prayer, but has not been able to dispute the aforesaid submissions.

Be that as it may, in the facts and circumstances of the case and also taking into consideration the fact that the entire occurrence took place on the spur of moment on account of accidental death of a minor boy and further taking into consideration the fact that they are the first offenders, this Court is inclined to accede to the prayer made on behalf of the petitioners for grant of anticipatory bail.

In the event of their arrest or surrender in the court below within a period of four weeks from today, let the above named six petitioners be released on bail on furnishing bail bonds of Rs.25,000/-(Rupees twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Begusarai in connection with Balia P.S.Case No. 16 of 2016, subject to the conditions laid down under Section 438 (2) of the Cr.P.C. and subject to the further conditions that :

(A) one of the bailors of each petitioners must be a

government servant or close family member of the petitioners, who will file an affidavit in the court below showing their relationship with the petitioners,

(B) if the petitioners are 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 bonds of the petitioners, 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, and

(C) the petitioners shall make regular pairvi in the court below in the present case either by appearing themselves in person or through representation by their lawyer on each and every dates, and if on two consecutive dates petitioners fail to make pairvi, then the court below shall be at liberty to cancel the bail bonds of the petitioners.

(Birendra Prasad Verma, J)

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