

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7015 of 2016

Arising Out of PS.Case No. -254 Year- 2015 Thana -AJAMNAGAR District- KATIHAR

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1. Md. Rahman @ Abdul Rahman son of Late Ghyasuddin
 2. Md. Rahmul son of Late Ghyasuddin
 3. Munnam @ Munnam Alam son of Wasiuddin
 4. Md. Shamim @ Samim Akhtar son of Wasiuddin
 5. Bibi Hadisan @ Hadisan Khatoon wife of Late Ghyasuddin
 6. Salam son of Wasiuddin
 7. Bano @ Bano Khatoon Wife of Illiyas
 8. Khurshid @ Md Khurshid son of Late Ghyasuddin
 9. Md. Nasim son of Hanif
 10. Illiyas son of Late Ghyasuddin
 11. Sobha @ Sobha Khatoon wife of Khurshid
 12. Wasiuddin son of Late Hanif Marar
 13. Md. Sabul @ Sahabul son of Wasiuddin
 14. Shambha @ Samma Khatoon wife of Wasiuddin
 15. Janhara Khatoon wife of Nasim All residents of Village - Bagdar, P.S. - Salmari, District - Katihar.
 16. Md. Nazir @ Md. Nazir Hasan son of Md. Hasajabddin resident of Village - Chandi, P.S. - Barsoi, District - Katihar.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa, Adv.
For the Opposite Party/s : Mr. Ram Sumiran Rai(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 16-02-2016 Heard learned counsels for the petitioners and the State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 147, 148, 149, 323, 324 and 436 of the Indian Penal Code.

The prosecution case is that the FIR named accused persons including the petitioners assaulted the informant, his

brother and daughter-in-law. It is alleged against petitioner no.1 to have sprinkled kerosene oil on the mill of the informant and lit fire as a result huge quantity of grains got perished.

It is submitted by learned counsel for the petitioners that in the background of land dispute, the accusation has been levelled. Petitioners' side lodged Azamnagar P.S. Case No. 253 of 2015 against the informant levelling accusation under Sections 147, 148, 149, 323, 324, 427 and 436 of the IPC, hence as a retaliatory measure, the present case has been lodged. Informant's side encroached the land of the petitioners' side for which D.C.L.R., Katihar directed the Circle Officer, Azamnagar on 05.12.2015 to get the encroachment removed and ten days thereafter the present case has been lodged. Even assuming the accusation, the offence under Section 436 IPC is not made out as affected area of the mill is not a dwelling house, hence at best case under Section 435 is made out. A statement has been made in para 3 of the petition that the petitioners have no criminal antecedent.

Considering the specific accusation against petitioner no.1, Md. Rahman @ Abdul Rahman, this Court is not inclined to grant anticipatory bail to him.

Let the learned court below consider the prayer for

regular bail of the petitioner no.1 if he surrenders within a period of six weeks keeping in view of the fact that the building on which the petitioner no.1 is alleged to have put fire is not a dwelling house and the case lodged by petitioners' side is at earlier point of time.

So far as petitioner nos. 2 to 16 are concerned, since the accusation is not specific against them, let them be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned C.J.M., Katihar in connection with Azamnagar P.S. Case No. 254 of 2015, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Dinesh Kumar Singh, J)

Amrendra/-

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