

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43206 of 2016

Arising Out of PS.Case No. -281 Year- 2014 Thana -PATORI District- SAMASTIPUR

- =====
1. Rajkishor Rai son of Rameshwar Rai
 2. Badal Rai son of Baso Rai
 3. Lalit Rai son of Yugal Rai
 4. Kailash Rai son of Baso Rai

All are residents of Village- Araiya, P.S.- Patori,
District- Samastipur, Bihar.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Rajeev Ranjan, Advocate

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 06-10-2016

Heard the parties.

The petitioners apprehend their arrest in a criminal prosecution registered under Sections 307/149, 324 and some other allied offences under the Indian Penal Code as also under Section 27 of the Arms Act.

As per prosecution case, on the order of petitioner Kailash Rai, co-accused Sanjay Rai is alleged to have fired upon the informant by pistol, as a result of which, he sustained injuries in his eye.

The learned counsel appearing on behalf of the petitioners submits that, in fact, the informant has not sustained any injury muchless fire arm injury on his person. He has also submitted that the petitioners have fair antecedent and no other criminal case is pending against them except the present one.

Be that as it may, taking into consideration the nature of allegation made in the first information report, this Court is

inclined to accede to the prayer made on behalf of the petitioner nos. 1 to 3 for grant of anticipatory bail, as there is no specific allegation of their active participation in the crime in question.

In the event of arrest or surrender in the court below within a period of four weeks from today, let the petitioner nos. 1 to 3 namely, Rajkishore Rai, Badal Rai and Lalit Rai 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, Samastipur in connection with Patori P.S.Case No. 281 of 2014, 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.

But, so far the petitioner no.4 Kailash Rai is concerned, there is specific allegation against him that on his order co-accused Sanjay Rai fired upon the informant causing injuries in

his eye. Therefore, his prayer for anticipatory bail in connection with Patori P.S.Case No. 281 of 2014 is rejected.

However, if the petitioner no.4 Kailash Rai surrenders in the court below within a period of four weeks from today and applies for regular bail, then the same shall be considered on its own merits without being prejudiced by the rejection of his prayer for anticipatory bail.

(Birendra Prasad Verma, J)

Tahir/-

U		T	
---	--	---	--