

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22281 of 2016

Arising Out of PS. Case No. -12 Year- 2016 Thana -PALASI District- ARRARIA

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1. Atabur Rahman @ Ataur Rahman, Son of Mumtaz Ali,
 2. Md. Tarikul @ Tarikul, Son of Rafique,
 3. Motiur Rahman, Son of Mustafa,
 4. Ziyaur Rahman @ Md. Ziaur Rahman, Son of Atabur Rahman,
 5. Molbi Hassan, Son of Abdul Razzaque,
 6. Afzal Hussain, Son of Late Lal Mohammad,
 7. Saifuddin, Son of Late Maqbool Hussain,
 8. Tahir @ Abu Tahir, Son of Jalaluddin,
 9. Md. Shahid @ Shahidul Rahman, Son of Abdulla
- All are resident of Village- Bhattabari, Police Station- Palasi, in the district of Araria.

.... Petitioners

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Akhileshwar Prasad Singh, Sr. Advocate
Mr. Raj Kumar, Advocate

For the Opposite Party/s : Mr. Pushpa Sinha 2, APP

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

4 12-07-2016 Heard learned counsel for the petitioners and the State as well as learned counsel appearing for the informant.

The petitioners apprehend their arrest in Palasi P.S. Case No. 12 of 2016 for the offences under Sections 147, 148, 149, 341, 323, 324, 307, 504, 506 and 302 of the Indian Penal Code.

It is alleged that due to management of Madarsa, there was fight amongst two groups, in which one person of the prosecution side died.

Learned counsel submits that there is a general and omnibus allegation against these petitioners and the specific allegation is only against accused Md. Noorul Hoda and Naushad Alam. He next submits that there is a case and counter case, in which five persons on their side have also sustained injuries.

Learned counsel for the petitioners has filed supplementary counter affidavit to the effect that petitioner nos. 1, 2, 4, 5, 7 and 9 have no criminal antecedent, whereas only one case, namely, Palasi P.S. case no. 146 of 2015 under Sections 147, 149, 341, 324 and 379 of the Indian Penal Code is pending against petitioner no.3. Two cases i.e. Palasi P.S. case no. 146 of 2015 under Sections 147, 149, 341, 324 and 379 of the Indian Penal Code and G.R. No. 949 of 2006 under Section 341, 323, 504 and 506 of the Indian Penal Code are pending against petitioner no.6. One case i.e. Complaint Case No. 2286 of 2013 under Sections 406 and 420 of the Indian Penal Code is pending against petitioner no.8 and the petitioners are on bail in the aforesaid case.

Learned counsel for the petitioners, thus, submits that 6 out of 9 accused have no criminal antecedent and petitioner nos. 3 and 8 are involved in one minor case each and petitioner no.6 is accused in two minor cases.

A counter affidavit has been filed on behalf of the



informant, wherein it has been stated that petitioner no.1, namely Atabur Rahman @ Ataur Rahman is also an accused in a case under Section 307 of the Indian Penal Code. He next submits that petitioner no. 6 is accused in Palasi P.S. case no. 193 of 2007 under Section 307 of the Indian Penal Code. He next submits that petitioner no.7 is also accused in case under Section 324, 379, 504 and 506 of the Indian Penal Code.

In reply, learned counsel for the petitioners submits that petitioner no.1, namely, Atabur Rahman does not have alias name of Manta. He further submits that co-accused Ghafoor @ Abdul Gafoor and seven other similarly situated have been granted anticipatory bail vide order dated 02.06.2016, passed in Cr. Misc. No. 19743 of 2016.

I have heard the counsel for the parties.

From the F.I.R., counsel for the informant has not been able to point out that petitioner No.6 is an accused in Palasi P.S. case no. 193 of 2007. Furthermore, the informant has also not produced a copy of the F.I.R., from which it would appear that Ataur Rahman @ Manta is being referred to Atabur Rahman @ Ataur Rahman, son of Mumtaz Ali.

In view of the above, in the event of arrest or surrender before the court below within four weeks from today,

the petitioner Nos. 1, 2, 3, 4, 5, 6, 8 and 9, namely, Atabur Rahman @ Ataur Rahman, Md. Tarikul @ Tarikul, Motiur Rahman, Ziyaur Rahman @ Md. Ziaur Rahman, Molbi Hassan, Afzal Hussain, Tahir @ Abu Tahir and Md. Shahid @ Shahidul Rahman, be released on bail on furnishing bail bond of Rs.5000/- (Five thousand) each with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate-IV, Araria in connection with Palasi P.S. Case no. 12 of 2016 (G.R. No. 225 of 2016) subject to the conditions as laid down under Section 438 (2) Cr.P.C.

As the petitioner no.7, namely, Saifuddin, has criminal antecedent, though under minor Sections, and the same has not been disclosed in the anticipatory bail petition, his prayer for grant of anticipatory bail is rejected.

(Samarendra Pratap Singh, J.)

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