

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26423 of 2016

Arising Out of PS.Case No. -1206 Year- 2004 Thana -GAYA COMPLAINT CASE District- GAYA

1. Kamal Yadav, S/o late Jogi Yadav
2. Umesh @ Ragi Yadav, S/o Bindeshwari Singh, All resident of Village-
Bhakharua More, P.S. Daudnagar, Distt Aurangabad.

.... .. Petitioners

Versus

1. The State of Bihar
2. Depesh Kumar, S/o Late Rajendra Prasad, Resident of Mohalla- Mir
Abbu Sale Road, PS Kotwali, Distt Gaya.

.... .. Opposite Parties

Appearance :

For the Petitioners : Mr. Kanhaiya Prasad Singh, Sr. Advocate
Mr. Anil Kr Singh No. 6, Advocate
For the State : Mr. Sunil Kumar Pandey, A.P.P.

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

2 13-07-2016 Heard Mr. Kanhaiya Prasad Singh, learned Sr.

counsel along with Mr. Anil Kr. Singh No.6, learned counsel, for
the petitioners and Mr. Sunil Kumar Pandey, learned A.P.P. for
the State.

Petitioners apprehend their arrest in a case filed
under Sections 365 and 506 of the Indian Penal Code.

Gaya Kotwali P.S. Case No.34/04 was registered
showing four persons including the petitioners as accused. The
case was registered under Sections 364/120(B) /34 of the Indian
Penal Code with an allegation of abduction of two persons.
Admittedly, the police submitted final report exonerating the



accused persons, however, at the same time, a protest petition was filed on behalf of the informant. Earlier, the petitioners, who were taken in custody, were enlarged on bail as no final form could be submitted by the police within the stipulated period. Final form was accepted vide order dated 16.08.2004 by the C.J.M., Gaya but at the same time, a complaint case was registered on the protest petition. Thereafter, it is contended that cognizance was taken under Sections 365 and 506 of the Indian Penal Code on 23.02.2012 i.e., after about 8 years. The petitioners have appended the entire order-sheet which goes to show that, after enquiry and recording statements, summons were issued against the accused persons which according to the petitioners were never served upon them. The order dated 03.04.2014 shows that service report was still awaited. On 22.09.2014 a direction was given to the office to obtain status regarding the accused persons. Thereafter, on 13.05.2015 suddenly without stating anything regarding service of summons upon the petitioners, non-bailable warrant was issued. Hence, application for grant of anticipatory bail has been filed.

It is contended that on earlier occasion bail was granted to the petitioners, however, bail bond furnished by them seized to be in operation immediately after final form exonerating the petitioners was accepted by the court below and complaint

case was initiated like a fresh proceeding and non-bailable warrant was not issued as the first instance rather summons were issued. In the aforementioned facts and circumstances of the case, it is urged that since the petitioners could not receive summons, they could not appear before the court below.

Having regards to the facts and circumstances of the case, in the event of arrest/surrender within a period of six weeks from today in complaint case no. 1206/04, Trial No.98/2016, the above named petitioners, Kamal Yadav and Umesh @ Ragi Yadav shall be released on bail on furnishing bail bonds of Rs.10,000(Ten Thousand Rupees) each with two sureties of the like amount each to the satisfaction of Sri Deepanshu Srivastav, J.M. 1st Class, Gaya subject to the conditions as laid down under sub-section(2) of Section 438 of the Code of Criminal Procedure.

(Dr. Ravi Ranjan, J)

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