

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42315 of 2017

Arising Out of PS.Case No. -59 Year- 2017 Thana -SALKHUA District- SAHARSA

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1. Mahesh Singh @ Mahesh Choudhary @ Choudhary, Son of Late Nand Kishor Choudhary.
2. Ram Kumar Singh @ Choudhary @ Ram Kumar, Son of Late Umesh Choudhary @ Late Umesh Singh
3. Sanat Kumar, Son of Mahesh Choudhary @ Mahesh Singh.
4. Sujeet @ Sumit Singh @ Chaoudhary @ Sumit Kumar @ Sujit Singh, Son of Late Kapil Dev Choudhary @ Late Kapil Dev Singh
All resident of Village + P.O. - Rahinpur, P.S.- Mufasil, District- Khagaria.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Kalyan Shankar and
Mr. Chandan Kumar, Advocates.

For the Opposite Party/s : Dr. Indihar Kumari, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

4 17-10-2017 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

Learned counsel for the petitioners informs this Court that petitioner no. 2, namely, Ram Kumar Singh @ Choudhary @ Ram Kumar, has already been arrested and hence, the application on his behalf has become infructuous.

The anticipatory bail application on behalf of the petitioner no. 2, namely, Ram Kumar Singh @ Choudhary @ Ram Kumar is accordingly dismissed as having become infructuous.

The petitioner no. 1, 3 and 4, in the present case, are seeking anticipatory bail in connection with Salkhua P.S. Case No. 59/2017 registered for offences punishable under Sections 147,



148, 149, 307 and 506 of the Indian Penal Code read with Section 27 of the Arms Act.

Learned counsel for the petitioners submits that the whole case is based on a false foundation of fact that there was indiscriminate firing. It is specifically submitted that no cartridge, either live or fired, has been recovered from the place of occurrence nor anyone has sustained any injury.

Learned counsel by filing a Supplementary Affidavit has placed before this Court a copy of the plaint which has been filed by petitioner no. 1 as plaintiff no. 1 and others giving rise to Title Suit No. 407/2016 in the court of learned Sub Judge I, Saharsa. Learned counsel submits that this very land, which is subject matter of the Title Suit, is said to be the alleged place where the informant claims that his daughter-in-law had gone for harvesting of Rabi crop. Learned counsel submits that in fact this is the land on which the informant is claiming his rights and the dispute over this piece of land has led to filing of this false case impleading all the family members. Fact remains that there is neither any recovery of live or fired cartridge nor there is any injury. Learned counsel has further explained that though there are some cases against the petitioner no. 1 and 3 but the cases at Sl. No. 3, 4 and 5 have been lodged by the Gotias because of land



dispute.

On the other hand, learned A.P.P. opposed the prayer for anticipatory bail and submits that there are allegations of indiscriminate firing against these petitioners, therefore, they do not deserve the privilege of anticipatory bail.

Having considered the allegations, the First Information Report and the impugned order passed by the learned Sessions Judge, this Court finds that so far as the present case is concerned there is no allegation of causing any injury to any of the persons and even the allegation of indiscriminate firing has been disputed by the petitioners as there is no recovery of live or fired cartridge. In the circumstances, in case of arrest or surrender of the petitioners no. 1, 3 and 4 within a period of four weeks from today, the petitioners no. 1, 3 and 4 named above shall be enlarged on bail on their furnishing bail bonds of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Salkhua in connection with Salkhua (Chiraiya O.P.) P.S. Case No. 59/2017, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Rajeev Ranjan Prasad, J)

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