

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23393 of 2017

Arising Out of PS.Case No. -43 Year- 2016 Thana -KAMTAUL District- DARBHANGA

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1. Mukesh @ Mukesh Gupta Son of Shatrughan Gupta,
2. Dilip Kumar Gupta Son of Basudeo Gupta
3. Ajay Gupta @ Ajay Prasad Gupta Son of Basudeo Gupta
4. Lal Babu Yadav Son of Yogendra Yadav.
5. Shiv Kumar Yadav Son of Shiv Sharan Yadav and
6. Radhe Shyam Yadav Son of Rameshwar Yadav
All Resident of Village- Karba, P.S. Kamtaul, District- Darbhanga.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Devendra Kumar with Mr. Pramod Kumar Verma, Advocates
For the State	:	Mr. Kumar Uday Pratap, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 10-07-2017

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners apprehend arrest in connection with
Kamtaul P.S. Case No. 43 of 2016 dated 30.03.2016 instituted under
Sections 147/148/149/323/325/307/ of the Indian Penal Code to which
later on Section 302 of the Indian Penal Code was also added.

3. The allegation against the petitioners is that they were
part of a mob which was indulging in brick-batting which was
between two communities.

4. Learned counsel for the petitioners submitted that the



allegation against them is general and omnibus of throwing brick-bats and naming of 18 accused persons is not possible as to identify the persons in a mob cannot be believed. Learned counsel submitted that similarly situated co-accused have been granted anticipatory bail by various orders, copies of which have been made Annexure-2, Annexure-3 and Annexure-4 to the present application. Learned counsel further submitted that the petitioners have clean antecedent.

5. Learned A.P.P. submitted that the allegation against the petitioners is of throwing brick-bats in an incident in which two communities were face to face and thus the Court would take serious note of the fact that such forces and tendencies are to be nipped in the bud with an iron hand.

6. The Court is in agreement with the submissions of learned A.P.P. that such incidents, especially when one community fights the other community in a country like India where the rule of Constitution and law has to prevail, sentiments cannot prevail and mobocracy cannot be permitted to disturb public peace and that too between two sections of the society, as basically everybody is first and foremost a citizen of India and then only comes his religion which is to be practiced in his own home and not to be flaunted or worn on the sleeve in public.

7. In view of the aforesaid, the Court, thus, has two



options before it. One, of taking a strict and punitive view in the matter, and the other to take a lenient view so that persons involved realize their folly/ mistake and are able to ponder on the fact that just because they may have different religious beliefs, the same is to be restricted to their personal lives and should be confined to the four walls of their house. They are duty bound to act as good citizens and residents of an area. It needs no emphasis that the first and foremost religion is humanity and maintaining peace and harmony among each other and different communities is the paramount requirement. In such view of the matter, the Court is inclined to take the latter approach and would thus grant indulgence of anticipatory bail to the petitioners with a hope that this would make them more responsible and not more belligerent. The Court hopes and trusts that good sense prevails so that people live peacefully and understand that they have to not only tolerate and accept, but also live together and cannot fight each other for the rest of their life which only results in loss, pain and misery to everyone, including their families, and is not restricted to any one community. They have to realize that there is no issue/difference which cannot be resolved by negotiation/sitting across the table and 'might is right' is not only an antithesis to civilized society but has also been rejected in the tradition and ethos of our great nation.



8. Considering the facts and circumstances of the case and submissions of learned counsel for the parties, and discussions made hereinabove, in the event of arrest or surrender before the court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the concerned Judicial Magistrate, 1st Class, Darbhanga in P.S. Case No. Kamtaul P.S. Case No. 43 of 2016 subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

9. The petitioners and the bailors shall execute bond with regard to good behaviour of the petitioners. The petitioners shall also give an undertaking to the Court that they shall not indulge in any criminal activity. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of their bail bonds. The petitioners shall cooperate in the trial and be present before the Court on each and every date. Failure to do so on two consecutive dates, without sufficient cause, shall also lead to cancellation of their bail bonds.

(Ahsanuddin Amanullah, J)

Anjani/-

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