

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.66665 of 2018

Arising Out of PS. Case No.-285 Year-2018 Thana- GOPALPUR District- Bhagalpur

1. Naval Kishor Kumar @ Naval Kumar, S/O Late Shubhuklal Kumar
2. Bulbul Kumar, S/O Naval Kishor Kumar @ Naval Kumar
3. Chulbul Kumar, S/O Naval Kishor Kumar @ Naval Kumar
All resident of village- Saidpur, Police Station – Gopalpur, District-
Bhagalpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar
For the Opposite Party/s : Mr. Sri Rajeev Nayan

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 17-12-2018 Heard the learned counsel for the petitioners
and the State.

The petitioners seek bail in anticipation of their arrest in connection with Gopalpur P.S. Case No. 285 of 2018 dated 24.07.2018 instituted for the offences under Sections 341, 323, 504 and 34 of the Indian Penal Code and Sections 25(1-b)a/26 of the Arms Act.

From the FIR, it becomes very apparent that petitioner no. 1 is alleged to have opened fire in front of the house of the informant while the informant was sitting in the police station. It has been alleged that thereafter the informant, on being informed about the occurrence, went to his house and caught hold of petitioner no. 1 and brought him to police station along



with the firearm weapon. His two sons who are petitioners no. 2 and 3 are said to have run away from the place of occurrence. It has further been stated in the FIR that about a year ago, same kind of occurrence had been committed by the petitioners with the parents of the informant but the matter was mediated by the local persons of the locality. It was therefore alleged that the issue be properly investigated and the uncle of the informant be provided protection.

On this FIR, the learned District and Sessions Judge, Bhagalpur Camp at Naugachia has rejected the FIR on the ground that petitioner no. 1 who was armed with a pistol was handed over to the police and production-cum-seizure list was prepared at the police station. The learned Judge did not take care to find out the background of the case and the later developments. The seizure list which has been annexed with the petition clearly discloses that it was prepared at the instance of the informant. If the informant was sitting at the police station, when the occurrence is said to have taken place, there was no reason for the informant to have personally gone to the place of occurrence to nab/apprehend the petitioner no. 1 or his two sons. He should have reported the matter to the police. That not having done, the allegation *prima facie* appears to be incorrect.



During the course of investigation, the SDPO found the case to be false and recommended for lodging of a case against the informant for having falsely implicated the petitioners and bringing a firearm to the police station with a story that the said firearm was used by the petitioner no. 1. It was found out that the firearm weapon which was deposited in the police station belonged to the informant himself.

A very casual and cavalier approach has been adopted by a Senior Judicial Officer while dealing with anticipatory bail petition of a person who was apprehending his arrest.

The other aspect of the matter which was completely ignored by the learned Sessions Judge that if a seizure list was prepared and the petitioner no. 1 was handed over to the police, where was the occasion for the petitioner no. 1 to have run away so as to enable him to file a petition for anticipatory bail.

It appears that no factual aspect was seen by the Judicial Officer and in a most perfunctory manner, the petition has been dealt with.

Learned counsel appearing for the petitioners has drawn the attention of this Court to the fact that during the course of investigation of Gopalapur P.S. Case No. 285 of 2018, the accusation against the



petitioners were found to be completely false and the FIR to be motivated. Hence an FIR has now been registered against the informant of the present case.

Regard being had to the aforesaid facts and taking into account that the petitioners do not have any criminal antecedents, the petitioners above named are directed to be released on bail, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, on their furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate, Naugachhiya in connection with Gopalpur P.S. Case No. 285 of 2018, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Ashutosh Kumar, J)

krishna/-

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

