

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18374 of 2019

Arising Out of PS. Case No.-948 Year-2018 Thana- AHYAPUR District- Muzaffarpur

1. UPENDRA TIWARY Son of Late Kameshwar Tripathi @ Tiwary Resident of Village and P.O.- Kalupakar, P.S.- Phanhara, District- East Champaran at Motihari.
2. Harendra Tiwari Son of Late Kameshwar Tripathi @ Tiwary Resident of village and P.O.- Kalupakar, P.S.- Phanhara, District- East Champaran at Motihari.
3. Devendra Tiwary Son of Late Kameshwar Tripathi @ Tiwary Resident of Village and P.O. Kalupakar, P.S.- Phanhara, District- East Champaran at Motihari.
4. Chinta Devi @ Chintamani Devi Wife of Sri Upendra Tiwary Resident of Village and P.O- Kalupakar, P.S.- Phanhara, District- East Champaran at Motihari.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shyama Kant Singh
For the Opposite Party/s : Mr.Dashrath Mehta

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

3 02-05-2019 Heard learned counsel for the petitioners and learned APP
for the State.

2. The petitioners apprehend their arrest for the offences alleged under Section 406 IPC registered in connection with Ahiyapur P.S. Case No. 948/2018.

3. It is submitted that the petitioners have been falsely implicated and in any event from a perusal of the averments in the FIR, the dispute between the parties is merely of civil nature. There is inordinate delay in institution of the FIR on 05.09.2018 for the alleged occurrence of 10.06.2016. The FIR has been lodged in retaliation to the petitioners' Complaint Case No. 1385 of 2018 which had been filed in the backdrop of a civil dispute. Petitioner nos. 1, 2 and 3 have been made accused in Phanhara P.S. Case No. 7/2003 whereas petitioner no.



4 claims clean antecedents.

4. Be that as it may, in the event of the petitioners' arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioners be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of learned CJM, Muzaffarpur in connection with Ahiyapur P.S. Case No. 948/2018, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and also subject to the following further conditions:

- i. That one of the bailors shall be a close relative of the petitioners.
- ii. That the petitioners shall not indulge in any similar offence till conclusion of the trial.
- iii. That the petitioners shall co-operate with the investigation, if not already concluded, and make themselves available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.
- iv. The petitioner nos. 1, 2 and 3 shall remain physically present and petitioner no. 4 shall be well represented in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, their bail bonds shall be liable to be cancelled by the learned Court concerned.

(Vikash Jain, J)

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