

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22775 of 2019**

Arising Out of PS. Case No.-473 Year-2018 Thana- RAJAON District- Banka
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1. AJIT YADAV, aged about 37 years, male, Son of Babulal Yadav, Resident of Village-Mirzapur, Police Station-Barahat, District-Banka.
2. Raju Yadav, aged about 42 years, male, Son of Babulal Yadav Resident of Village-Mirzapur, Police Station-Barahat, District-Banka.
3. Shambhu Mahrana @ Shambhu Yadav, aged about 40 years, male, Son of Hemkant Maharana, Resident of Village-Mirzapur, Police Station-Barahat, District-Banka.
4. Guddu Yadav @ Gudu Yadav, aged about 32 years, male, Son of Basistha Yadav Resident of Village-Mirzapur, Police Station-Barahat, District-Banka.
5. Fentoosh Yadav @ Fantoosh Yadav, aged about 38 years, male, Son of Late Hari Yadav, Resident of Village-Subkha, P.S-Rajoun, District-Banka.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioners : Mr. Ajay Mukherjee, Advocate.

For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

2 10-04-2019 Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners apprehend their arrest for the offences alleged under Sections 147, 148, 149, 341, 323, 307, 395, 504 and 506 of the Indian Penal Code and Section 27 of the Arms Act registered in connection with Rajoun P.S. Case No. 473 of 2018.

3. It is submitted that the petitioners have been falsely implicated in the backdrop of ongoing dispute between the



parties as the informant himself is part of *sand mafia* and an objection has been raised by the petitioners to the road being damaged by the informant. The petitioner nos. 1 and 2 are said to have fired upon the informant and petitioner no. 3 is said to have fired upon Mihilal Yadav. There is no overt act of any assault by petitioner nos. 4 and 5. The petitioners claim clean antecedents.

4. Considering the specific accusation of firing by petitioner nos. 1 and 2 upon informant and the injury report showing firearm injury caused to the informant, this Court is not inclined to grant the privilege of anticipatory bail to the petitioner nos. 1 and 2. The anticipatory bail petition of petitioner nos. 1 and 2 stands dismissed.

5. As regards petitioner no. 3, considering that there is no injury report to corroborate the accusation of firing upon Mihilal Yadav, and as regards petitioner nos. 4 and 5 against whom there is no accusation of overt act of assault, in the event of the petitioner nos. 3, 4 and 5 arrest or surrender before the court below within six weeks from the date of communication of this order, let the petitioner nos. 3, 4 and 5 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 Chief Judicial Magistrate, Banka in connection with Rajoun P.S. Case No. 473 of 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 petitioner nos. 3, 4 and 5.

(ii) That the petitioner nos. 3, 4 and 5 shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner nos. 3, 4 and 5 shall cooperate 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) That the petitioner nos. 3, 4 and 5 shall remain physically present 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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