

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49273 of 2019

Arising Out of PS. Case No.-49 Year-2019 Thana- GOPALGANJ TOWN District- Gopalganj

1. UDAY TIWARI @ UDAY KR. TIWARI Son of Ram Adya Tiwari Resident of Village - Nawada Khas, P.S.- Gopalganj, Dist.- Gopalganj.
2. Ram Adya Tiwari Son of Late Raghunath Tiwari. Resident of Village - Nawada Khas, P.S.- Gopalganj, Dist.- Gopalganj.
3. Sabhajeet Tiwari Son of Ram Adya Tiwari Resident of Village - Nawada Khas, P.S.- Gopalganj, Dist.- Gopalganj.
4. Munna Tiwari son of Sant Tiwari Resident of Village - Nawada Khas, P.S.- Gopalganj, Dist.- Gopalganj.
5. Dhruv Tiwary @ Dhruv Yadav @ Dhruv Tiwari Son of Gama Yadav Resident of Village - Par Nawada , P.S.- Gopalganj, Dist.- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Singh
For the Opposite Party/s : Mr.Dilip Kumar No. 1

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 08-08-2019 Heard both sides.

The petitioners apprehend their arrest in Gopalganj (Town) P.S. case No. 49 of 2019 registered under Section 341, 342, 323, 386, 506, 379/34 of the IPC.

The informant alleged that on 26.12.2018 while he was going to his residence situated in Gopalganj Town from his village and reached near the bamboo bush, the petitioners, Ram Adya Tiwari, Sabhajit Tiwary, Uday Tiwary, Munna Tiwary and Dhruv Tiwary, having armed with pistol and knife, came and



asked the informant to pay Rs. Two lacs failing which the accused persons threatened him to kill. The accused persons assaulted the informant but in the meantime his brother came on motor cycle and seeing the light of motor cycle the informant raised alarm thereafter the accused persons fled away threatening the informant of dire consequences on non payment of extortion.

The learned counsel for the petitioners submits that the entire allegation is false and concocted. The petitioners are co-sharers and next door neighbours of the informant, Brajesh Tiwary. The occurrence is said to have taken place on 26.12.2018 but the informant gave written application on 25.01.2019 on the basis of which the present FIR was lodged on 27.01.2019. There is no plausible explanation for inordinate delay in lodging the case and this fact itself shows the falsity of the prosecution case. It is further submitted that prior to institution of the present case, Brajesh Tiwary, the informant, lodged Gopalganj Town P.S. Case No. 607 of 2017 against some of the petitioners and others and from the side of petitioners Gopalganj Town P.S. case No. 606 of 2017 was lodged. On account of land dispute both parties are on inimical terms. It is further submitted that Partition Suit No. 392 of 1999 is pending



in which petitioner No.2, Ram Adya Tiwary, is one of the plaintiffs and Brajesh Tiwary is defendant No.1. The petitioners and informant are descendants of the same branch.

Taking into consideration the facts that informant and petitioners are descendants of the same branch and there is partition suit pending between two sides and the fact that the occurrence is said to have taken place on 26.12.2018 but the informant gave written application on 25.01.2019 without any plausible explanation, the petitioners, above named, in the event of their arrest/ surrender before the court below within a period of four weeks from the date of receipt/ production of a copy of this order are directed to be enlarged on bail on their furnishing bail bond of Rs. 10,000/- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gopalganj in connection with Gopalganj (Town) P.S. case No. 49 of 2019, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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