

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6958 of 2020

Arising Out of PS. Case No.-13 Year-2019 Thana- KAMTAUL District- Darbhanga

1. Krishnadeo Yadav, S/o Late Baliram Yadav, R/o village- Dudhiya, P.S.- Kamtaul, District- Darbhanga
2. Karambir Yadav, S/o Krishnadeo Yadav, R/o village- Dudhiya, P.S.- Kamtaul, District- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kanhaiya Prasad Singh, Sr. Advocate
Mr. Dileep Kumar Singh, Advocate
For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 19-06-2020 The matter has been listed today for consideration through video conferencing in view of the nationwide lockdown on account of COVID-19 pandemic.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.

Heard learned counsel for the petitioners and the learned APP for the State.

The petitioners are apprehending their arrest in connection with Kamtaul P.S. Case No.13 of 2019 registered for the offence punishable under Sections 147, 149, 341, 323, 307,



504, 506 of the Indian Penal Code. Later on, Section 302 of the Indian Penal Code has been added.

The informant has alleged that on 03.01.2019 at 12:00 O'Clock in the night, he went to the house of his cousin brother Vishwa Mohan Yadav on hearing some noise but did not find his cousin brother sleeping at the door of his house, where he used to sleep. Following the noise, he moved in that direction where he saw 13 named accused persons assaulting his cousin brother. The reason for the occurrence is said to be an application made against the accused persons regarding encroachment of Anganwari Centre by Vishwa Mohan Yadav.

Mr. Kanhaiya Prasad Singh, learned Senior Counsel representing the petitioners submits that the date of occurrence in the F.I.R. was mentioned as 03.01.2019, written report submitted on 10.01.2019 whereas F.I.R. has been registered on 14.01.2019. Such unexplained delay renders the entire prosecution case to be false and fabricated. The petitioners are not named in the F.I.R. Their subsequent implication is on account of subsisting enmity with the prosecution party since before. The same is evident from the fact that one of the signatories to the F.I.R., as a witness, namely, Vipin Kumar Yadav has subsequently given his *Fard beyan* dated 15.01.2019 (Annexure-2) in respect of the same occurrence, only this time he



has alleged assault by 21 persons, including the petitioners, instead of 13.

From paragraph 58 of the case diary, the court below in the order of rejection has taken note of the fact that Petitioner No.1 Krishnadeo Yadav is a Bihar Home Guard Jawan and was on duty on 03.01.2019 and 04.01.2019. Other co-accused persons, namely, Rekha Devi, Kishani Devi @ Kisuni Devi @ Kishan Devi, Jyoti Devi and Anju Devi, have been granted anticipatory bail in Cr.Misc. No.63329 of 2019, vide order dated 17.10.2019. The accused No.3 and accused No.5 against whom there was specific allegation of assault in the F.I.R. have subsequently been allowed regular bail in Cr.Misc. No.44536 of 2019, vide order dated 04.12.2019.

Learned APP for the State has opposed the prayer for anticipatory bail submitting that the allegations are very serious in nature.

Considering the rival submissions, this Court is inclined to allow petitioners' prayer for grant of anticipatory bail.

Accordingly, let both the petitioners, above named, in the event of their arrest or surrender before the court below within a period of four weeks from today, be released on bail on



furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned S.D.J.M., Darbhanga, in connection with Kamtaul P.S. Case No.13 of 2019, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

(i) That one of the bailors of each of the petitioners will be a close relative of the petitioners who will give an affidavit giving genealogy as to how he is related with the petitioners concerned. The bailors will also undertake to inform the court if there is any change in the address of the petitioners.

(ii) That the petitioners will be well represented on each date and if they fail to do so on two consecutive dates, their bail bonds will be liable to be cancelled.

(Madhuresh Prasad, J)

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