

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 19481 of 2020

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1. Rambhajan Sah @ Rambhajan Sahu, Gender-Male, aged about 38 years, son of Mahavir Sah, R/o- village-Ujua, P.S.-K. Asthan, District –Darbhanga
 2. Ganga Sah @ Ganga Sahu, Gender-Male, aged about 24 years, son of Mahavir Sah, resident of village-Ujua, P.S.-K.Asthan, District-Darbhangha

..... Petitioners

Versus

The State of Bihar

..... Opposite party

Appearance

For the Petitioner/s : Mr. Parth Gaurav, Advocate

For the State : Mr. Arun Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

4 31.08.2020 Heard learned counsel for the petitioners and learned A.P.P for the State through video conferencing.

The petitioners have filed the instant application for grant of regular bail in connection with K. Asthan P.S. Case no. 151 of 2019 registered under sections 302 and other sections of the Indian Penal Code and sections 25(1-B)(a), 26 and 27 of the Arms Act.



As per allegation in the F.I.R., it is stated that as a result of altercation between the families, the 15 named accused persons including the two petitioners herein agreed to a Panchayati. It is further stated that at the time of Panchayati, the accused persons started to abuse and the named accused persons including the petitioner no.1 variously armed with *rod, lathi*, bricks etc. assaulted the informant's side killing four persons.

It is submitted by learned counsel for the petitioners that the petitioners have been falsely implicated in this case due to village politics. Admittedly, there was land dispute between the parties. It is further submitted that although there is false allegation of specific overt act against the petitioner no. 1. So far as the petitioner no. 2 is concerned, no overt act has been alleged against him. The petitioners are aged persons who have no criminal antecedent and are in custody since 22.6.2019.

The application for bail is opposed by learned A.P.P. for the State.

Case diary was called for and the same has been received.

Having heard learned counsel for the parties and on going through the materials on record it transpires that in the



occurrence as stated in the F.I.R. four persons were murdered. Both the petitioners are named in the F.I.R. While there is an allegation of the petitioner no.1 being armed with *kulhari*, it is stated that others were armed with *lathi*, *rod* etc. However, there is no material by way statement of any witness assigning any role to petitioner no.2 or that he was carrying any weapon. The petitioners have been in custody since 22.6.2019 and has no criminal antecedent

In the facts and circumstances of the case, the Court is not inclined to enlarge the petitioner no.1 on bail and as such his application for bail is rejected.

However, in view of the submissions made by learned counsel for the petitioners and the petitioner no.2 being in custody since 22.6.2019, the Court is inclined to enlarge the petitioner no.2 on bail. The petitioner no.2 is directed to be enlarged on bail in connection with K. Asthan P.S. Case no. 151 of 2019 on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate 1st Class, Biroul, Darbhanga.

Taking into consideration the allegation as levelled in the F.I.R. of four murders having taken place in the occurrence, it is directed that the petitioner no.2 shall remain personally



present in the Court on each and every date of trial and in case of his absence on any date for reasons not to the satisfaction of the learned Court below, his bail bound shall be cancelled and he shall be taken into custody till conclusion of the trial.

(Partha Sarthy, J)

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