

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.27272 of 2020**

Arising Out of PS. Case No.-149 Year-2020 Thana- GARKHA District- Saran

1. Rajesh Kushwaha, Son of Bishwanath Mahto, Residence of Village - Maiki Udhiawan tola, P.S.- Garkha, District - Saran at Chapra.
2. Amarjeet Kumar, Son of Kanhaya Mahto, Residence of Village - Maiki Udhiawan tola, P.S.- Garkha, District - Saran at Chapra.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Nawal Kishore Singh, Advocate
For the Opposite Party/s : Ms. Renu Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 19-10-2020 Heard learned counsel for the petitioners and Ms. Renu Kumari, learned APP for the State.

The petitioners in the present case are seeking regular bail in connection with Sessions Trial No. 158 of 2020 arising out of Garkha P.S. Case No. 149 of 2020 registered for the offences punishable under Section 307/34 of the Indian Penal Code and Section 25 (i-b)a, 26/27/35/37 of the Arms Act.

Learned counsel for the petitioners submits that the petitioners and informant are in fact co-villagers and they have got some property dispute which has given rise to personal enmity and because of that two cases as stated in paragraph '3' of the present application have been filed by the informant's



side whereas two cases have been filed from these petitioners' side.

So far as the present case is concerned, it is submitted that the allegation against the petitioners is that they had gone to fish the pond of the informant and when the informant reached there and objected to the same, the petitioner no. 1 instigated the others to kill the informant and his brother whereupon the informant and his brother started fleeing away towards their home. It is alleged that the petitioner no. 1 had fired but the informant was able to save himself. It is then alleged that on hearing the sound of firing the villagers assembled there and they caught the petitioners along with the arms whereas one co-accused Kanhaya Mahto and four unknown criminals fled away.

Learned counsel submits that one thing is clear from the F.I.R. itself that these petitioners were handed over to police by the informant and even arms were presented by the informant in the Police Station which fact would be evident from the seizure list where the name of the person who produced the arms is mentioned as that of the informant. Submission is that it is a case of false implication, no firearm injury has been caused to the informant's side and the petitioners are in jail since 06.04.2020.

As regards the two cases stated in paragraph '3',



learned counsel has submitted on instruction that so far as the first case being Garkha P.S. Case No. 496 of 2018 is concerned the bail petition of the petitioner is pending in this Court whereas in Garkha P.S. Case No. 1319 of 2018 the petitioners are on bail.

Learned A.P.P. for the State has opposed the prayer for regular bail but considering the facts and circumstances of the case, wherein the petitioners were produced before Police by the informant's side and even the arms were also handed over to the Police by informant himself, the prior enmity are admitted on account of property dispute, no firearm injury has been caused to the informant and that the petitioners are in custody for over six months, let the petitioners above-named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned 12th Additional Sessions Judge, Saran at Chapra in connection with Sessions Trial No. 158 of 2020 arising out of Garkha P.S. Case No. 149 of 2020, subject to the conditions as laid down under Section 437(3) of the Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,



(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, or the commission of which he is suspected, and

(c) that such person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners.

And further condition that they will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic.

(Rajeev Ranjan Prasad, J)

vats/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

