

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27512 of 2020

Arising Out of PS. Case No.-404 Year-2019 Thana- HARNAUT District- Nalanda

1. PRADEEP PASWAN S/o Lalit Paswan Resident of Village-Dihra, P.S.-Harnaut, District-Nalanda.
2. Mithlesh Paswan S/o Kapil Paswan Resident of Village-Dihra, P.S.-Harnaut, District-Nalanda.

... .. Petitioners.

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Satya Ranjan Sinha, Advocate.

For the Opposite Party/s : Mr. Rambilash Roy Raman, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 20-10-2020 Heard learned counsel for the petitioners and learned
APP for the State through virtual court proceedings.

Since the physical court proceeding is non-functional,
due to present pandemic, COVID-19, the matter is listed with
defects.

Learned counsel for the petitioners undertakes to
remove the defects, as pointed out by the office, within four
weeks of resumption of physical court proceeding. In the
eventuality of non-removal of defects within undertaken period,
the office will place the matter before the Bench.

The petitioners seek bail in a case registered for the
offence punishable under Sections 392 of the Indian Penal Code



and later on Section 395 and 412 of the Indian Penal Code was added.

The prosecution case, in nutshell, is that while the informant, who is a truck driver, was going to Chapra to Sheikhpur along with his khalasi at about 9 PM in the night when he reached ahead to Harnaut where road is damaged, one Scorpio vehicle overtake the truck and stopped. From the Scorpio vehicle two persons came out and sat on the truck. They tied the eye, mouth and hand of the informant and his khalasi. After some distance both have got down the informant and khalasi from the truck and sat in the Scorpio and after some distance they left them south of the village road and also snatched their mobile, two hundred rupees and fled away from the Scorpio. The informant anyhow reached at the Harnaut Police Station and lodged the present F.I.R.

It is submitted by learned counsel for the petitioners that the petitioners have committed no offence and have no concern with the aforesaid occurrence. They have been falsely implicated in this case. The petitioners are neither named in the F.I.R. nor they were apprehended on the spot. No incriminating article has been recovered from their conscious physical possession. The allegation levelled against the



petitioners is not specific rather general and omnibus in nature. There is nothing in the record indicating the complicity of the petitioners in the occurrence barring the confessional statement of co-accused Raushan Kumar, which has no evidentiary value in the eye of law. No test identification parade has been conducted. Co-accused, namely, Ashwini Pandit has been enlarged on bail by a co-ordinate bench of this court vide order dated 03.06.2020 passed in Cr. Misc. No.17109 of 2020. The petitioner has been languishing in custody since 02.01.2020.

Considering the facts aforesaid, the above named petitioners are directed to be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned A.C.J.M.-II-cum-I/c C.J.M., Nalanda at Bihar Sharif in connection with Harnaut P.S. Case No.404 of 2019, subject to the following conditions :

- (1) One of the bailors will be their own blood relative, preferably, father, mother, brother, sister and/or his wife.
- (2) The petitioners shall not indulge themselves in any similar offence till conclusion of the trial.
- (3) The petitioners 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 reasons, their bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioners shall co-operate with the investigation, if not already concluded and make himself available and when so required and, in case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjani Kumar Sharan, J)

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