

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44423 of 2019

Arising Out of PS. Case No.-108 Year-2017 Thana- LAHERIYASARAI District- Darbhanga

1. Pradeep Kumar Gupta Son of Kailash Prasad Gupta Resident of Mohalla-Naka No.5, Kotwali Chowk, P.S-Town, District-Darbhangha.
2. Gaurav Kumar Gupta Son of Kailash Prasad Gupta Resident of Mohalla-Naka No.5, Kotwali Chowk, P.S-Town, District-Darbhangha.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amarendra Narayan, Advocate

For the Opposite Party/s : Mr.Amit Kumar Rakesh, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 28-05-2020 The matter has been taken up through virtual Court proceeding.

Heard Mr. Amarendra Narayan, learned counsel for the petitioners and Mr. Amit Kumar Rakesh, learned counsel appearing for the State.

The petitioners have renewed the prayer for bail in connection with a case registered for the offences punishable under Sections 341, 323, 324, 307, 379, 504, 427 and 326/34 of the Indian Penal Code. Subsequently, Section 302 of the IPC was also added.

The prosecution case got initiated with the



fardebayan of Krishna Kant Choudhary recorded on 25.03.2017 at 3.00 P.M. in the Emergency Ward, DMCH, Darbhanga by S.I. Rupak Kumar Ambuj, SHO, Benta O.P. (Laheriasarai), is to the effect that the informant runs a medical shop namely, Raghav Medical Hall situated at Balbhadrapur near the tower chowk, Laheriasarai. The neighbour of the informant, Kailash Prasad Gupta filed Eviction Suit No. 11 of 1997 in which his wife was plaintiff and the informant was defendant. The eviction suit was dismissed. Consequently, the wife of Kailash Prasad Gupta filed Eviction Appeal No. 08 of 2012 which is pending. In the background of the said dispute on 25.03.2017 at 10.00 A.M., the informant came to know that the gate of the medical shop was broken and the articles have been robbed worth more than Rs.Five lakhs. Thereafter, the fight ensued between the informant and said Kailash Prasad Gupta and the sons of Kailash Prasad Gupta namely, Pradeep Kumar Gupta, Gaurav Kumar Gupta, who are petitioners before this Court and Praveen Kumar Gupta caught hold of the informant's son, Manoj Kumar Choudhary and thereafter, Praveen Kumar Gupta and Gaurav Kumar Gupta took jar filled with petrol from their mother and sister and poured on the son of the informant, thereafter Praveen Kumar Gupta lit the fire, as



a result, the son of the informant received 60% burn injury and ultimately, during treatment the son of the informant succumbed to the injuries.

It is submitted by learned counsel for the petitioners that in the background of land dispute in litigated relationship, the accusation has been levelled. The informant's side on 25.03.2017 ransacked the shop of Kailash Prasad Gupta for which Complaint Case No. 449 of 2017 was filed and the said complaint was transmitted to the police for registration of a police case. Though the prosecution witnesses have been examined but it was awaiting report of the FSL. However, a supplementary affidavit has been filed on 14.01.2020 which suggests that the FSL report reflects that the seized plastic jar contained one polythene packet having semi burnt cloth do not contain any fire accelerants, like, k.oil, petrol or diesel and petitioners are custody since 25.03.2017. The accusation of lighting fire is against co-accused Praveen Kumar Gupta. It is further submitted that the matter was adjourned vide order dated 07.08.2019 by Co-ordinate bench of this Court for four months allowing learned trial Court to conclude the trial but the trial has not been concluded. The other co-accused family members, like, Chanda Devi and Kumari Sapna Gupta,



the mother and sister of the petitioners have been granted bail by Co-ordinate benches of this Court vide Cr. Misc. Nos. 38041 of 2017 and 39417 of 2018 respectively. A statement has been made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP submits that the specific accusation against the petitioners is of pouring petrol on the son of the informant and the trial is at the advance stage.

Considering the accusation in the background of land dispute and litigated relationship, the half burnt clothes being found in the plastic jar in which it is alleged that petrol was brought whereas, during chemical examination by the FSL, no fire accelerants was found, the main thrust of accusation of litting fire is against co-accused Praveen Kumar Gupta and the fact that the trial has not been concluded as yet, coupled with the statement made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent, let the petitioners above named be released on bail for a period of three months for the present on furnishing one surety to the satisfaction of the learned 1st Additional Sessions Judge, Darbhanga in connection with Sessions Trial No. 289 of 2017, arising out of Laheriasarai P.S.



Case No. 108 of 2017.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond upon furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioners which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) each with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Darbhanga in connection with Sessions Trial No. 289 of 2017, arising out of Laheriasarai P.S. Case No. 108 of 2017.

The learned Court below will be at liberty to further extend the period of provisional bail if the lockdown, due to the present pandemic COVID-19, is not over in next three months.

However, the learned trial Court will be at liberty to positively cancel the bail bonds of the petitioners, if



the petitioners default for two consecutive occasions during trial.

(Dinesh Kumar Singh, J)

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