

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 78437 of 2019

Arising Out of PS. Case No.-29 Year-2019 Thana- BASNAHI District- Saharsa

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1. Manish Kumar (Male), aged about 21 years, son of Anil Yadav.
 2. Bablu Kumar @ Bablu Yadav (Male), aged about 23 years, son of Anil Yadav.
 3. Dharmendra Kumar Yadav @ Dhano Yadav (Male), aged about 48 years, son of Najo Yadav.
 4. Anil Yadav (Male) aged about 50 years, son of Najo Yadav
 5. Suresh Kumar Yadav @ Suman Yadav (Male), aged about 46 years, son of Najo Yadav
 6. Najo Yadav (Male), aged about 85 years, son of Late Bihari Yadav
 7. Ranjay Yadav (Male), aged about 35 years, son of Kameshwar Yadav.
 8. Sanjay Yadav (Male), aged about 40 years, son of Kameshwar Yadav
 9. Dilip Yadav (Male), aged about 32 years, son of Kameshwar Yadav.
 10. Niraj Kumar @ Neeraj Yadav, aged about 19 years, son of Suman Yadav.
- All are resident of Village Barsam, P.S. Basnahi, District Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate with Ms. Priyanka Singh and Mr. Madhav Raj, Advocates
For the State	:	Mr. Narsingh Tanti, APP
For the Informant	:	Mr. Pawan Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date :07-09-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Yogesh Chandra Verma, learned senior counsel along with Ms. Priyanka Singh and Mr. Madhav Raj, learned counsel for the petitioners; Mr. Narsingh Tanti, learned Additional Public Prosecutor (hereinafter referred to as the



‘APP’) for the State and Mr. Pawan Kumar, learned counsel for the informant.

3. The petitioners apprehend arrest in connection with Basnahi PS Case No. 29 of 2019 dated 16.03.2019, instituted under Sections 341/323/379/436/504/34 of the Indian Penal Code.

4. The allegation against the petitioners, along with two others, is of putting fire to the house of the informant resulting in loss of rupees five lakhs of foodgrains and Rs. 50,000/- cash and also of snatching away of gold chain of the informant, the reason being land dispute.

5. Learned counsel for the petitioners submitted that the allegation against the petitioners is apparently false. It was submitted that the parties are agnates and because of land dispute they have been falsely implicated. It was submitted that the fire was not caused by the petitioners, as alleged, and rather it either an accident or self done purposely for claiming relief and also implicating the petitioners for oblique reasons for settling other disputes between the family. Learned counsel submitted that the allegation of Najo Yadav (petitioner no. 6) of being the order giver is patently untrue as he is aged about 85 years and, thus, it is highly improbable that he would lead a



group and give order for such burning of the house of the informant. Learned counsel submitted that the informant has also alleged that he could hear the accused at the back of his house planning to put fire, but nothing has been said as to why no attempt was made to stop the petitioners from lighting fire as it cannot be believed that somebody would let his house be burnt having so much of valuable materials, including cash, in it without offering any resistance. Learned counsel submitted that there is one other criminal case against the petitioners no. 2, 4, 6, 7, 9 and 10. Learned counsel submitted that strongest presumption with regard to innocence of the petitioners and the incident being an accident or deliberately done by the informant and others themselves, is the fact that no attempt was made by any of the family members to douse the fire, which would be the natural course of action if so many valuable materials worth lakhs of rupees and cash of Rs. 50,000/- was in the house and if any attempt would have been made, it would definitely have resulted in some sort of burn injury to the family members while doing that or while trying to save the food grains and at least cash, which is said to have been burnt, but there has been no injury or any burn caused to any of the family members, which goes against the very natural conduct of a person whose house is



burnt in which there is so much of valuable articles which are being burnt, including cash of Rs. 50,000/-. It was submitted that there is inordinate delay in lodging of the FIR as the date of occurrence is said to be 14.03.2019, but the information to the police has been given only at 5.00 PM on 16.03.2019, for which there is no explanation and further, that the date and time of the incident have been written later on, which is *ex facie* reflected from the FIR itself. Learned counsel submitted that it is against normal human conduct that a person, whose house has been burnt causing huge loss, would wait for so long to lodge FIR.

6. Learned APP, from the case diary, submitted that witnesses have supported the prosecution story. However, on a query of the Court with regard to there being any explanation for inordinate delay in lodging of the FIR, he fairly submitted that no explanation has come during investigation, as reflected from the case diary.

7. Learned counsel for the informant adopted the arguments of learned APP and further submitted that the petitioners are strong men and it has been their conduct to intimidate the informant. However, he could not controvert the fact that there is land dispute and the parties are agnates and also that there is no explanation as to why the information was given



after such long delay to the police, which is recorded in the formal proforma of the FIR.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned A.C.J.M. IInd, Saharsa in Basnahi PS Case No. 29 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973. Further (a) one of the bailors shall be a close relative of the petitioners and (b) the petitioners shall cooperate in the matter, both with the police/prosecution and the Court. Failure to cooperate or non-appearance before the Court, without sufficient cause, shall lead to cancellation of their bail bonds.

9. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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