

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87148 of 2019

Arising Out of PS. Case No.-79 Year-2019 Thana- BIHRA District- Saharsa

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1. DAYANAND ROY @ Dayanad Roy Son of Late Yaduni Ray Resident of Village - Patori, Ward No. 4, P.S.- Bihra, Distt - Saharsa.
 2. Shekhar Ray Son of late Yaduni Ray Resident of Village - Patori, Ward No. 4, P.S.- Bihra, Distt - Saharsa.
 3. Sadanand Ray Son of late Yaduni Ray Resident of Village - Patori, Ward No. 4, P.S.- Bihra, Distt - Saharsa.
 4. Nityanand Ray Son of Late Yaduni Ray Resident of Village - Patori, Ward No. 4, P.S.- Bihra, Distt - Saharsa.
 5. Kundan Ray @ Kundan Kumar @ Kunday Ray Son of Dayanand Ray Represented by Natural Father, Namely Dayanand Ray Resident of Village - Patori, Ward No. 4, P.S.- Bihra, Distt - Saharsa.
 6. Punita Devi Wife of Ranjeet Ray @ Fatali Resident of Village - Patori, Ward No. 4, P.S.- Bihra, Distt - Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Mishra
For the Opposite Party/s : Mr.Dr. Kumar Uday Pratap

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 06-07-2020 Heard Mr. Ashok Kumar Mishra, learned counsel

for the petitioner and Dr. Kumay Uday Pratap, learned

counsel for the State.

The petitioner no. 4/Nityanand Ray has been

arrested and, therefore, his petition has been dismissed as

having become infructuous by a Bench of this Court vide



order dated 06.01.2020.

So far as rest of the petitioners are concerned, they seek bail in anticipation of their arrest in connection with Bihra P.S. Case No. 79/2019 dated 26.05.2019 instituted for the offences under Sections 341, 342, 323, 307, 379, 504 and 506/34 of the Indian Penal Code.

Petitioner no. 5 is stated to be a minor at the time of the occurrence.

This petition on his behalf therefore, is not maintainable and is dismissed.

He would be well advised to appear before the concerned Juvenile Justice Board. Since the offence in the present case is a heinous offence as defined under Section 2 (33) of Juvenile Justice (Care and Protection of Children) Act, 2015, the Juvenile Justice Board would be under the obligation to consider the case of the Juvenile in terms of Section 15 of the Act and then pass any order.

So far as petitioner no. 6/Punita Devi is concerned, considering the nature of accusation, which is general and omnibus in nature and the informant is an eye witness of the



occurrence, she is directed to be released on bail, in the event of her arrest or surrender before the court below within a period of six weeks from the date of receipt / production of a copy of this order, on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Saharsa, in connection with Bihra P.S. Case No. 79/2019, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

Mr. Ashok Kumar Mishra, learned counsel for the petitioners, while canvassing the case of petitioner no. 1/Dayanand Roy @ Dayanad Roy, petitioner no. 2 /Shekhar Ray and petitioner no. 3 / Sadanand Ray has submitted that one of the co-accused, namely Vidyanand Ray has been granted regular bail by the court below by noticing the fact in the F.I.R., one Saraswati Devi is said to have seen the occurrence but she has not been examined by the police and no explanation has also been offered on behalf of the prosecution for not examining her.

Apart from this, it has been submitted that



petitioner no. 1/Dayanand Roy @ Dayanad Roy, petitioner no. 2 /Shekhar Ray and petitioner no. 3 / Sadanand Ray are not alleged to have committed any specific overt act and the implication against them is only because of old enmity. He further submits that it is stated in the First Information Report that there was a dispute with respect to public land associated with a temple. In this background, learned counsel for the petitioners submits that possibility of false implication of the petitioner nos. 1, 2 and 3 cannot be ruled out.

However, considering the nature of accusation against petitioner no. 1/Dayanand Roy @ Dayanad Roy, petitioner no. 2 /Shekhar Ray and petitioner no. 3 / Sadanand Ray and also taking into account that one of the similarly situated person has been arrested and has been granted bail by the Court below, I am not inclined to exercise my discretion for grant of anticipatory bail to the petitioner nos. 1, 2 and 3.

Their application for anticipatory bail is rejected.

However, if they surrender before the court below



and seek bail, the same shall be considered on its own merits without being prejudiced by the fact that the present petition on their behalf has not been entertained.

This application stands disposed of accordingly.

(Ashutosh Kumar, J)

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