

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86810 of 2019

Arising Out of PS. Case No.-93 Year-2019 Thana- DAWATH District- Rohtas

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1. BUTTER KHAN @ BATTER KHA Son of Late Bhola Khan Resident of Village - Babhanaul, P.S.- Dawath, District - Rohtas.
 2. Akbar Khan Son of Irsad Khan Resident of Village - Babhanaul, P.S.- Dawath, District - Rohtas.
 3. Samshad Khan Son of Nausad Khan Resident of Village - Babhanaul, P.S.- Dawath, District - Rohtas.
 4. Naggi Khan @ Najji Son of Late Chhotak Khan Resident of Village - Babhanaul, P.S.- Dawath, District - Rohtas.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar, Adv.
For the Informant : Mr. Kalyan Shankar, Adv.
For the Opposite Party/s : Mr.Raj Ballabh Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 22-06-2020 Heard Mr. Rajesh Kumar learned counsel for the

petitioner and Mr. Kalyan Shankar, learned counsel for the

informant. The state is represented by learned APP.

The petitioners seek bail in anticipation of their

arrest in connection with Dawath P.S. Case No. 93/2019

dated 08.06.2019 instituted for the offences under Sections

147, 148, 149, 341, 323, 307, 336, 354, 447, 504 and

120(B) of the Indian Penal Code and Section 27 of the Arms



Act.

About 24 persons including the petitioners have been named in the First Information Report and there are about 150 persons, who are unnamed, who also have been made accused in this case. The occurrence took place because of some dispute having erupted while a dance party which had come in the marriage of a relative of the informant, was performing.

It has been submitted on behalf of the petitioners that they have only been named in the First Information Report but have not been attributed with any specific act of assault. In a general manner, all the accused persons including the petitioners are said to have indulged in brick bats and assault.

During the course of assault, the informant and his brother sustained injuries. It further appears that the brother of the informant died. As a result of his death, a requisition has been made by the Investigation Officer for addition of Section 302 of the Indian Penal Code in the case.

Learned counsel for the petitioners has also



informed this Court that with respect to the same occurrence, another F.I.R. was lodged by the police vide Dawath P.S. Case No. 92 of 2019. In the aforesaid case also, the petitioners were made accused but they have been granted anticipatory bail by a Bench of this Court.

Mr. Kalyan Shankar, learned counsel for the informant has however, submitted that some of the named accused persons having similar allegations against them, have been granted regular bail. In that view of the matter, it has been urged on behalf of the informant that the petitioners may not be accorded the privilege of anticipatory bail.

Regard being had to the fact that some of the similarly situated accused persons have been granted regular bail in this matter, I am not inclined to grant anticipatory bail to the petitioners for the sake of parity.

The prayer for anticipatory bail is rejected.

However, if the petitioners surrender before the Court below and seek bail, it shall be considered on its own merits after taking into account the fact that there is no



specific accusation against the petitioners and some of the similarly situated persons have been granted bail. The court below shall also take into account the fact that in the case with respect to the same occurrence lodged by the police, the petitioners have been granted anticipatory bail and shall pass order in accordance with law without being prejudiced by the fact that the present petition has not been entertained.

(Ashutosh Kumar, J)

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