

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5928 of 2020

Arising Out of PS. Case No.-130 Year-2019 Thana- RAHUI District- Nalanda

1. UPENDRA YADAV Son of Late Birendra Prasad Resident of Village-Pachrukhiya, P.S-Khushrupur, District-Patna.
2. Santosh Don @ Santosh Kumar Son of Late Birendra Prasad Resident of Village-Pachrukhiya, P.S-Khushrupur, District-Patna.
3. Mukhu Kumar @ Mukku Kumar Son of Vishwanath Prasad Resident of Village-Pachrukhiya, P.S-Khushrupur, District-Patna.
4. Ajit Kumar Son of Bijay Prasad Resident of Village-Teka Bigha, P.S.-Bakhtiyarpur, District-Patna.
5. Pintu Kumar Son of Rudal Prasad Resident of Village-Khidarchak, P.S-Rahui (Bhagwan Bigha), District-Nalanda.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Rajeev Kumar, Advocate

For the Opposite Party/s : Mr.Chandra Bhushan Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

10 01-02-2021 This case has come up for consideration of the show
cause filed on behalf of the deponent.

The reason for calling upon the deponent to file show
cause may be found in this Court's order dated 07.09.2020 and
the order dated 21.12.2020 which are being extracted
hereunder:-

“Heard learned counsel for the petitioners and
Mr.Chandrabhushan Prasad, learned APP for the State.

The petitioners in the present case are seeking
pre-arrest bail in connection with Rahui
(Bhagwanbigha) P.S. Case no. 130 of 2019 registered
for the offences punishable under Sections 147,



149,341, 323, 307, 385 of the Indian Penal Code.

Learned counsel for the petitioners submits that there are general and omnibus allegations against these petitioners and that the injuries are simple in nature. It is further submitted that some altercation had taken place between the parties and in the course of said altercation the informant has received injury on the middle region of head which is simple in nature. The petitioners have otherwise no criminal antecedent.

Learned APP for the State has opposed the prayer for pre-arrest bail of the petitioners. It is submitted that from the injury reports available on the record it would appear that two injuries on vital part of the body of the informant and two injuries on the vital part of the body of his son have been found by the doctors.

Learned APP has further informed that in paragraph '46' of the case diary it has come that Upendra Yadav (petitioner no. 1) and Mukku (petitioner no. 3) were arrested in connection with Khusrupur P.S. Case no. 341 of 2017 dated 08.07.2017 under Section 392 IPC in which they were released on bail but these facts have been concealed in paragraph '3' of the present application.

Having regard to the facts and circumstances of the case wherein the petitioners have also admitted in their petition that an altercation had taken place between the parties in which the informant had received injuries and injury report shows that there are at least four injuries on the body of the informant and his son (two each), the allegations in the FIR got substantiated from the injury report and further that petitioner no. 1 and 3 have got criminal antecedent also, this Court is not inclined to grant anticipatory bail to the petitioners. The prayer for anticipatory bail is, thus, refused.



In case the petitioners surrender and pray for regular bail in the court below within a period of four weeks from today, their prayer for regular bail shall be considered on its own merit without being prejudiced by the present order of this Court.

Since this Court has noticed that there is a false statement in paragraph '3' of the application, let a show cause be issued to the deponent of the affidavit namely Rajvallam yadav son of Munni yadav, R/o village Malbigha, P.S.- Rahui, District- Nalanda to showcause as to why an appropriate proceeding be not initiated against him for swearing false affidavit.

List this matter for purpose of consideration of show cause after four weeks i.e. on 12.10.2020."

Order dated 21.12.2020:

"Perused the letter no. 2563 dated 15.12.2020 written by the Superintendent of Police (Rural), Patna. The letter says that in the report made available by the Officer Incharge of Khushrupur Police Station it is mentioned that in the year 2017 altogether 275 cases have been registered whereas according to the order passed by this Court the present position of investigation in Khushrupur P.S. Case No. 341 of 2017 has been called for which is not clear.

This Court had occasion to call for a report with respect to Khushrupur P.S. Case No. 341 of 2017 because after perusal of the case diary in connection with Rahui (Bhagwanbigha) P.S. Case No. 130 of 2019, learned APP for the State had submitted before this Court that as per paragraph 46 of the case diary, petitioner no. 1 and petitioner no. 3 were arrested in connection with Khushrupur P.S. Case No. 341 of 2017 dated 08.07.2017 under Section 392 of the Indian Penal Code in which they were released on



bail but these facts were concealed in paragraph 3 of the bail application.

When this Court called upon the deponent of the affidavit to show cause as to why a proceeding for swearing false affidavit be not initiated against him, the deponent has filed a show cause, he has submitted that he tried to find out the complete details of Khushrupur P.S. Case No. 341 of 2017 from the learned court below, he had also applied for information but his requisition was rejected.

Now this Court is to find out whether the statements made in paragraph 46 of the case diary relating to Rahui (Bhagwanbigha) P.S. Case No. 130 of 2019 was correct ?

It is for this reason, this Court in its order dated 01.12.2020 called upon the Superintendent of Police (Rural), Patna to furnish the present status of Khushrupur P.S. Case No. 341 of 2017 in which the petitioner nos. 1 and 3 were said to have been arrested and released on bail. Instead of sending the complete information with respect to Khushrupur P.S. Case No. 341 of 2017, the Officer In-charge has sent a report to the Superintendent of Police that there were 275 cases which were reported in the year 2017 and the Court had called for the present stage of investigation of Khushrupur P.S. Case No. 341 of 2017 which is not clear.

It appears at this stage that the Officer-in-Charge of Khushrupur Police Station is not able to send the complete information, as according to him, there were only 275 cases reported in Khushrupur Police Station in the year 2017. This Court when called upon learned A.P.P. to once again look into paragraph '46' of the case diary, learned A.P.P. submits that there was a mistake with regard to the case number which were



reported to this Court and was recorded accordingly in the order dated 01.12.2020.

The Court has now been informed that the correct case number would be Khushrupur P.S. Case No. 134/2017 dated 08.07.2017 under Section 392 of the Indian Penal Code.

Let a fresh report be called for from the Superintendent of Police, Rural, Patna as to whether the petitioner no. 1 and 3 of this case are accused in Khushrupur P.S. Case No. 134/2017 and they were arrested in connection with the said case. The report shall be sent to this Court by 11th of January, 2021.

Let the matter be listed on 18th of January, 2021.

Let a copy of this order be communicated to learned court below and the Superintendent of Police, Rural, Patna through FAX/E-mail immediately.”

In the show cause the deponent has stated that Khushrupur P.S. Case under Section 392 I.P.C. happened to be a very old case against petitioner no. 1 & 3 which could not be mentioned because of loss of memory about the said case which is more than two years old and in which petitioner no. 1 & 3 are on bail.

Learned A.P.P. for the State submits that the plea which is being taken by the deponent are merely lame excuse just to save his skin when this court has already noticed from the case diary that these two petitioners had been previously arrested in the said case and were in jail. It is further submitted that the deponent nowhere says that he was not aware of the



said case and if it is so, then it is not believable that a two years old case in which these two petitioners had gone to jail could not be there in his knowledge.

It is further submitted that in the case of **Uttar Pradesh Residential Employees Cooperative House B. Society Vs. New Okhla Industrial Development Authority** reported in **(2004) 9 SCC 670**, the Hon'ble Supreme Court has taken a view that filing of false affidavit also amounts to Contempt of the Court. In this regard, another judgment of the Hon'ble Apex Court in the case of **Chandra Shashi Vs. Anil Kumar Verma** reported in **(1995) 1 SCC 421** has been relied.

At this stage, since this Court has noticed that the attempt to conceal the criminal antecedent was taken before the learned court below as well as before this Court in the present application and the show cause filed by the deponent is not acceptable to this Court, the show cause is hereby rejected.

The Registry of this Court shall institute a criminal contempt proceeding and notice shall be issued by the Registry to the deponent calling upon him to show cause within four weeks as to why action in contempt be not taken against him for filing false affidavit in this Court.

Let the criminal contempt be listed before



appropriate Bench after seeking permission of Hon’ble the
Chief Justice.

So far as the present case is concerned, the same will
be treated to have been disposed off.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading ‘Judicial Orders Passed During The Pandemic Period’.

