

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37503 of 2021

Arising Out of PS. Case No.-196 Year-2018 Thana- DAGARUA District- Purnia

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1. Md. Belal @ Master Belal @ Master Vilal Son Of Md Shahabuddin Resident Of Village - Gerki, P.S. - Dagarua, District - Purnea.
 2. Md. Wasim @ Md. Wasim Akhtar Son Of Idris Resident Of Village - Gerki, P.S. - Dagarua, District - Purnea.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Nadimul Hasan,Advocate
For the Opposite Party/s	:	Ms.Sucheta Yadav,APP
For the Informant	:	Mr.Abu Haidar,Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 06-10-2021 Heard learned counsel for the petitioners, learned counsel for the informant and Ms. Sucheta Yadav, learned APP for the State.

This is the second attempt of the petitioners to obtain privilege of anticipatory bail in connection with Dagarua P.S. Case No. 196 of 2018 registered for the offences punishable under Sections 147, 148, 149, 323, 379, 307, 504/34 of the Indian Penal Code.

Earlier the prayer for anticipatory bail of the petitioners was rejected by this Court vide order dated 14.02.2019 passed in Cri. Misc. No. 5286 of 2019. While rejecting the prayer for anticipatory bail, this Court had though noticed the contention of learned counsel for the petitioners that



till date there was no injury report in the case diary but the learned counsel for the informant had submitted that the injury report is showing grievous injury to both the informant and his father.

It appears that after rejection of the prayer for anticipatory bail of the petitioners by this Court, the police did not arrest the petitioners rather it transpires in course of submission that petitioner no. 1 was noticed under Section 41(i) of the Code of Criminal Procedure pursuant to which he appeared and co-operated in course of investigation. After investigation petitioner no. 2 was not sent up for trial and after submission of the final form, the learned Magistrate has differed with the police report and took cognizance of the offences under Sections 147, 149, 341, 307, 323 and 504 of the Indian Penal Code as also ordered to issue summons against the petitioners. The change of circumstance has been noticed by this Court in its order dated 04.08.2021.

Learned counsel for the petitioners submits that the arrest of an accused is not required in a routine manner and it is always the prerogative of an investigating officer to see as to whether in the given circumstance the arrest of the accused is necessary, therefore, even after rejection of the prayer for



anticipatory bail, the I.O. did not take steps for arrest of the petitioners. The petitioners cooperated in course of investigation and then the petitioner no. 2 was not sent up for trial. It is his submission that in these circumstances at this stage when the petitioners are ready to participate in course of trial, no fruitful purpose would be served by compelling them to go behind the bars.

Ms. Sucheta Yadav, learned APP for the State has though opposed the prayer for bail of the petitioners but is not controverting the submissions made on behalf of the petitioners based on the specific statement that these petitioners have co-operated in course of investigation.

In the given circumstance, this Court is of the considered opinion that the petitioners have made out a case for grant of pre-arrest bail.

Let the petitioners above-named in the event of their arrest or surrender within four weeks from today in connection with Dagarua P.S. Case No. 196 of 2018 be released on bail on furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Magistrate 1st Class, Purnea, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.



And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

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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'.

