

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 28049 of 2020

Arising Out of PS Case No.-147 Year-2020 Thana- SULTANGANJ District- Patna

1. Rizwi @ Rizwi Kasai, aged about 47 years (Male).
2. Guddu @ Guddu Kasai, aged about 35 years (Male).
Both sons of Baratu Kasai.
3. Md. Shahid @ Shahin Kasai @ Md. Shahin, aged about 23 years (Male).
4. Md. Raja Kasai @ Md. Raja Quraishi, aged about 25 years (Male).
Both sons of Chunnu Kasai.
5. Saheb Kasai @ Md. Saheb, aged about 22 years (Male), Son of Jubbair Kasai @ Jubbair Quraishi.
6. Afridi Kasai @ Md. Afridi, aged about 18 years (Male), Son of Budha Kasai @ Budha Quraishi @ Anwar.
7. Md. Chunnu Kasai @ Md. Chunnu @ Chunnu Quraishi, aged about 65 years (Male), Son of Late Ganni Kasai @ Late Abdul Ganni Kasai.
8. Prince Kasai @ Prince, aged about 35 years (Male), Son of Baratu Kasai @ Baratu Quraishi.
9. Sabir Kasai @ Sabir Quraishi, aged about 45 years (Male), Son of Late Fahim Kasai @ Fahim Quraishi.
All Residents of Mohalla- Kasim Colony, Dargah Road, Police Station- Sultanganj, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar Mouar, Advocate
For the State	:	Mr. Suresh Prasad Singh, APP
For the Informant	:	Mr. Jawed Gaffar Khan, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 05-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Arvind Kumar Mouar, learned counsel for the petitioners; Mr. Suresh Prasad Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the



State and Mr. Jawed Gaffar Khan, learned counsel for the informant.

3. The petitioners apprehend arrest in connection with Sultanganj PS Case No. 147 of 2020 dated 18.05.2020, instituted under Sections 147/148/149/452/380/427/341/354/307/504/506 of the Indian Penal Code.

4. The allegation against the petitioners and two named and 100 other unknown persons, is that they were variously armed with deadly weapons and had entered into the house of the informant, damaged the motorcycle and property and looted articles and specific against few of them is that they had taken away jewellery and cash also. It is also alleged that the informant and his family managed to save their lives by locking themselves in a room.

5. Learned counsel for the petitioners submitted that the car of the son of the informant which he was driving had met with an accident in which the daughter of the petitioner no. 3 had died and due to this the people of the locality were protesting out of rage and there was a crowd, as has been alleged in the FIR itself of 100 of persons and it is but natural that the petitioner no. 3 and his other family members who are resident of the same locality, would have also expressed their anger, but the allegations are



totally false and unbelievable. It was submitted that as per the FIR itself, the informant had rang up the police and they had come and Sultanganj PS Case No. 146 of 2020 was lodged by them; both relating to the same incident of 15.05.2020 and in that, the police version is that they received call that there was arson by a mob at the spot and when they reached there, they found that a mob was trying to break into the house of the informant and more force had to be called to bring the situation under control. It was submitted that the present case has been lodged three days after the said incident for the same incident, by the informant, just to create pressure to compromise the other case, which is Traffic (Gandhi Maidan) PS Case No. 51 of 2020, which has been filed for the accident caused by the car of the son of the informant on 15.05.2020, leading to the death of the minor daughter of the petitioner no. 3. It was, thus, submitted that the entire allegation that the informant and his family were under threat and did not approach the police for lodging the FIR is falsified since in the FIR itself, it has been stated that on telephonic information, the police had come and in fact, the police itself has also lodged Sultanganj PS Case No. 146 of 2020, on the date of the accident itself in which it has not been stated that the crowd had entered into the house and damaged the property or had threatened the



inmates. It was further contended that only the motorcycle which was outside the house of the petitioners was vandalized by the crowd, that too, without taking any specific name. Learned counsel submitted that the petitioners are not veteran and hardened criminals and whatever happened was due to the sentiments of the people where a minor girl was crushed to death by the vehicle of the son of the informant and they were protesting in front of the house of the informant, more so, in view of attitude and conduct of the informant and his family in denying the incident. Learned counsel submitted that no injury to any person was caused as per the FIR itself and further, once the situation was brought under control by the police on 15.05.2020 itself, the allegation that the crowd had entered into the house and had looted articles and life of the informant and his family members were threatened, stands falsified, as no untoward/violent incident occurred between 15.05.2020 till 18.05.2020, to justify that there was any real or perceived threat to the informant or his family members. It was submitted that the petitioner no. 6, Afridi Kasai @ Md. Afridi is accused in one other case. Learned counsel took a categorical stand that nobody has identified the petitioners on the basis of CCTV footage and with regard to the reference to the CCTV footage, it is the persons who have been named after



comparison, but the petitioners are not the persons who have been named after comparison of the CCTV footage. It was submitted that even that witness is not an independent witness as he is an employee working in the press of the informant's son. Learned counsel submitted that during investigation, there has been neither any recovery of jewellery nor cash, which goes to show that the allegations are false. It was submitted that no specific overt act has been alleged against anyone by any witness and the allegations are general and omnibus against more than 100 persons.

6. Learned APP, who was earlier asked to obtain the up-to-date legible photo copy of the case diaries of the present case as well as Sultanganj PS Case No. 146 of 2020, which was lodged by the police for the same incident of 15.05.2020, submitted that from the case diary, in the present case, the place of occurrence has been described as the house of the informant where two broken Godrej Almirahs have been found and on the terrace and in the corridor, brickbats were found. However, in Sultanganj PS Case No. 146 of 2020, there is description only of the outside road where the mob had assembled and is said to have burnt the motorcycle belonging to the informant's son. On a specific query of the Court as to whether any injuries were caused to the police personnel, he submitted that though in the FIR there is allegation



of injury and even there is statement of the injured constable, but no injury report is on record. Learned APP submitted that in both the cases, investigation is still going on and the police has not submitted any report to the Court.

7. On a specific query of the Court as to whether any independent witness has also supported the prosecution case, learned APP submitted that it is only the close relatives of the informant who have supported and no independent witness has been examined by the police. On further query of the Court with regard to the antecedent of the petitioners, it was submitted that in both the cases, no antecedent report is available in the case diaries. He submitted that from the CCTV footage all the petitioners have been identified. However, learned APP did not controvert that there has been no recovery of any cash or jewellery by the police.

8. Learned counsel for the informant submitted that the petitioners have not truthfully disclosed their antecedent as they have antecedent. In this connection, he submitted that the petitioner no. 1 has not been sent up for trial in another case. However, petitioner no. 2 is accused in Sultanganj PS Case No. 141 of 2012; petitioner no. 6 is accused of Alamganj PS Case No. 413 of 2018; petitioner no. 7 is accused of Sultanganj PS Case No. 317 of 2018; petitioner no. 8 is accused in Sultanganj PS Case No.



317 of 2018 and petitioner no. 9 is also accused in Sultanganj PS Case No. 317 of 2018. Continuing further, learned counsel submitted that during police investigation, witnesses have supported the prosecution story and the motorcycle of the informant's son has been burnt, Almirah broken and cash and jewellery taken away. Learned counsel submitted that witnesses have supported the incident, especially witness Ahmad Raza, who has identified the petitioners from the CCTV footage. Learned counsel submitted that the spy has also identified petitioners no. 1 to 4 and 6 to 9.

9. On a quick response sought from learned counsel for the petitioners at this juncture, he submitted that only petitioner no. 6 is an accused in Sultanganj PS Case No. 413 of 2018, whereas others have no criminal antecedent. He drew the attention of the Court to the FIR and final report submitted by the police in Sultanganj PS Case No. 317 of 2018, to contend that petitioners no. 7, 8 and 9 have not been sent up for trial and, thus, they have been exonerated by the police itself. Further, learned counsel for the petitioners submitted that with regard to petitioner no. 6, he is accused in Alamganj PS Case No. 413 of 2018, which was against unknown, but later on his name had transpired and he has been granted bail by the Court below itself.



10. 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 ACJM-II, Patna City in Sultanganj PS Case No. 147 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioners, (ii) that the petitioners and the bailors shall execute bond with regard to good behaviour of the petitioners, (iii) that the petitioners shall give an undertaking to the Court that they shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses and (iv) that the petitioners shall cooperate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to cooperate shall lead to cancellation of their bail bonds.

11. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court concerned, which shall take immediate



action on the same after giving opportunity of hearing to the petitioners.

12. The petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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