

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.33948 of 2020

Arising Out of PS. Case No.-231 Year-2017 Thana- JAHANABAD District- Jehanabad

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1. Ujawal Kumar, aged about 45 years, Male, Son of Shashi Bhushan Sharma.
 2. Kundan Sharma @ Kundan Kumar, aged about 33 years, Male, Son of Chandra Bhushan Sharma.
 3. Ali Ranjan Kumar @ Bittu Sharma, aged about 26 years, Male, Son of Late Satish Sharma.
All are resident of Village- Hajipur, PS- Kako, District- Jehanabad.
 4. Rintoo Sharma @ Rintoo Kumar Simpall, aged about 34 years, Male Son of Devendra Kumar @ Devendra Kumar Sharma @ Birendra Kumar, Resident of Mohalla- Raja Bazar, Jehanabad, PS and District- Jehanabad.
 5. Mintoo Sharma @ Simple Kumar, aged about 36 years, Male, Son of Devendra Kumar Devenda Kumar Sharma @ Birendra Kumar, Resident of Mohalla- Airodram Jehanabad, PS and District- Jehanabad.
 6. Dinesh Sharma @ Dinesh Kumar, aged about 40 years, Male, Son of Baijnath Sharma (Wrongly mentioned as Raja Ram Sharma), Resident of Village- Nandanpura, PS- Makhdumpur (Tehta OP), District- Jehanabad.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Senior Advocate with Mr. Rakesh Kumar Sharma, Advocate
For the State	:	Ms. Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 29-06-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Ramakant Sharma, learned senior counsel along with Mr. Rakesh Kumar Sharma, learned counsel for the petitioners and Ms. Meena Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the



State.

3. The petitioners apprehend arrest in connection with Jehanabad PS Case No. 231 of 2017 dated 09.04.2017, instituted under Sections 341/ 342/ 323/ 307/ 333/ 353/ 279/ 379/ 420/ 504/ 506/ 34 of the Indian Penal Code; Rule 40 of the Bihar Minor Mineral Concession Rules, 1972 and Rules 1, 2, 3 of the Bihar Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules 2003.

4. The allegation against the petitioners is that when a truck was asked to stop for checking, the driver had rung up the owner, who had come at the petrol pump and the owner had called certain other persons who have not been named and they indulged in assault and later on the name of the petitioners has transpired that they were the persons who had come at the behest of the owner of the vehicle and had assaulted and specifically that the owner had assaulted the police constable by iron rod on the head.

5. Learned counsel for the petitioners submitted that there may have been some hot-talk between the parties and the ground reality is that even the enforcement agencies are not clean and due to this there may have been some altercation but no such incident of assault has occurred. It was submitted that



the same would be evident from the fact that no injury report has been brought on record till date. Further, it was submitted that the owner, who is said to be the main accused, as he had assaulted by iron rod on the head of the constable, as alleged, has been granted anticipatory bail by the Court below on the ground of alibi which falsifies the present allegation. Learned counsel submitted that even otherwise on merits, the case was instituted on 09.04.2017 but for the first time the Investigating Officer has prayed to the Court for issuance of warrant of arrest against the petitioners on 30.06.2019 i.e., after more than two years. Learned counsel submitted that the petitioners have no criminal antecedent.

6. Learned APP, from the case diary, submitted that as per the allegation, the petitioners also took part in the assault on the police constable. However, she did not controvert the fact that the petitioners are not named and further that they have no criminal antecedent and also there is no injury report on record.

7. 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 Chief Judicial Magistrate, Jehanabad in Jehanabad PS Case No. 231 of 2017, 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, and (iii) that the petitioners shall also 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. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of their bail bonds. The petitioners shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of their bail bonds.

8. 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.



9. The application stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J)

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