

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33929 of 2020

Arising Out of PS. Case No.-2 Year-2020 Thana- THAKRAHA District- West Champaran

1. Suresh Chaudhary (M), aged about 50 years, son of Paltan Chaudhary.
2. Chandramani Devi @ Chandmuni Devi (F), aged about 48 years, wife of Suresh Chaudhary.
3. Nitu Kumari @ Nitoo Soni (F), aged about 26 years, D/O Suresh Chaudhary,
4. Anup Kumar @ Anup Chaudhary (M), aged about 21 years, S/o Suresh Chudhary.
5. Rekha Kumari @ Rekha Kumari Chaudhari @ Rekha Chaudhary (F), aged about 20 years, D/O Nagendra Chaudhary,
6. Puja Kumari @ Puja Kumari Chaudhari, (F), aged about 19 years, D/O Nagendra Chaudhary.
7. Kalawati Devi @ Kalavati Devi (F), aged about 66 years, W/O Lalan Chaudhary,
8. Priyanka Kumari (F), aged about 21 years, D/O Om Prakash Chaudhary.
All are the resident of village- Nauka tola, Belawari Patti, Thakraha, P.S. Thakraha, District - West Champaran.
9. Kisor Devi @ Kishori Devi (F), aged about 38 years, D/O Paltan Chaudhary, W/O Parduman Chaudhary, resident of village - Bhadaura, P.S. - Siwan (Muffasil), District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ravi Shankar Sahay, Advocate
For the State	:	Mr. Md. Arif, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 22-03-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Ravi Shankar Sahay, learned counsel for the petitioners and Mr. Md. Arif, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. Learned counsel for the petitioners submitted that



the petitioner no. 7, Kalawati Devi @ Kalavati Devi, has been arrested and thus, the application on her behalf may be permitted to be withdrawn.

4. In view thereof, the application on behalf of the petitioner no. 7, Kalawati Devi @ Kalavati Devi, stands disposed off as withdrawn and the application is restricted to petitioners no. 1, 2, 3, 4, 5, 6, 8 and 9, namely, Suresh Chaudhary, Chandramani Devi @ Chandmuni Devi, Nitu Kumari @ Nitoo Soni, Anup Kumar @ Anup Chaudhary, Rekha Kumari @ Rekha Kumari Chaudhari @ Rekha Chaudhary, Puja Kumari @ Puja Kumari Chaudhari, Priyanka Kumari and Kishori Devi @ Kishori Devi.

5. The petitioners apprehend arrest in connection with Thakraha PS Case No. 02 of 2020 dated 06.11.2020, instituted under Sections 147, 148, 149, 341, 332, 337, 338, 353, 120-B of the Indian Penal Code.

6. The allegation against the petitioners is that when the police party had gone to remove encroachment, they had formed unlawful assembly and had also thrown brickbats on the police obstructing them in their official duty and also resulting in injury.

7. Learned counsel for the petitioners submitted that



the allegations are false as there may have been some scuffle, but there was no injury to corroborate what has been alleged as the injury report discloses only some bruises and minor cuts. It was further submitted that even the action of the police was totally high handed and as the petitioners are on the land for a number of decades and without any notice or show cause to them, the action of evicting them in the name of removal of encroachment was high handed and colourable exercise of power. It was submitted that even young female members have not been spared. Learned counsel submitted that the petitioners have no criminal antecedent.

8. Learned APP submitted that there is allegation of assault on the police party which had gone to perform their duty of removing encroachment and further, that there cannot be any justification for attacking the police even if there may have been merit in the contention of the petitioners as the same has to be agitated in a lawful manner before the appropriate forum and not in the way it has been done in the present case.

9. 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 (except petitioner no. 7,



Kalawati Devi @ Kalavati Devi) 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 concerned Judicial Magistrate, 1st Class, Bagaha, West Champaran, in Thakraha PS Case No. 02 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, 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.

10. 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.

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

(Ahsanuddin Amanullah, J)

J. Alam/-

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