

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37695 of 2020

Arising Out of PS. Case No.-138 Year-2011 Thana- PARASBIGHA District- Jehanabad

1. Devendra Sharma @ Bithal Sharma @ Bithal (M), aged about 55 years, S/o Jogeshwar Sharma
2. Rajiv Kumar (M), aged about 32 years, S/o Devendra Sharma @ Bithal Sharma @ Bithal

Both resident of Village-Gonwan, P.S.-Sakurabad, District-Jehanabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Haridayal Kumar, Advocate
For the State	:	Ms. Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 02-08-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Haridayal Kumar, learned counsel for the petitioners and Ms. Veena Kumari Jaiswal, learned Additional Public Prosecutor (APP) for the State.

3. The petitioners apprehend arrest in connection with Parasbigha PS Case No. 138 of 2011 dated 07.12.2011, instituted under Sections 379/511/34 of the Indian Penal Code.

4. The allegation against the petitioners is that they along with another son of petitioner no. 1 had tried to steal the CD pumping set machine of the informant and when they were seen, they began to run away and on chase the other son of



petitioner no. 1 namely, Guddu Kumar was apprehended whereas the petitioner no. 1 and his son, petitioner no. 2 managed to run away, and when the informant was going to the police station it is alleged that the family members of Guddu Kumar forcibly got him released.

5. Learned counsel for the petitioner submitted that they are neighbours of the informant and due to rivalry they have been falsely implicated. Learned counsel submitted that final form has been submitted by the police and the petitioners were not sent up for trial, but the Court below differing from the same, had taken cognizance against them also. It was submitted that they were unaware of such development and thus earlier had not moved for anticipatory bail as no summons were ever issued to them and thus could not appear before the Court below.

6. Learned APP submitted that the petitioners along with another son of petitioner no. 1 were trying to steal the CD pumping set of the informant and upon being seen, tried to run away, but another son of petitioner no. 1 was caught. It was submitted that cognizance in the matter has been taken by the Court on 06.12.2012 i.e., within one year of the occurrence and that another son of petitioner no. 1, namely, Guddu Kumar



having been chargesheeted even by the police, it is unbelievable that the petitioners no. 1 and 2, being the father and full brother of co-accused Guddu Kumar, were not aware that cognizance had been taken against them also on 06.12.2012 and even then, for the first time sought anticipatory bail only in the year 2020, clearly disentitles them for any indulgence as they were evading to submit to the jurisdiction of the Court for eight years after cognizance having been taken and only when non-bailable warrants of arrest have been issued against them on 03.01.2019, the petitioners sought anticipatory bail in the year 2020, which proved lack of *bona fide*.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to the petitioners.

8. Accordingly, the petition stands dismissed.

(Ahsanuddin Amanullah, J)

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