

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40523 of 2020

Arising Out of PS. Case No.-466 Year-2019 Thana- SAUR BAZAR District- Saharsa

1. KAILASH YADAV S/o BANESHWAR YADAV R/V- Arraha, Ward No.-07, P.S.- Sour Bazar, Distt.- Saharsa.
2. Nandan Yadav S/o Baneshwar Yadav R/V- Arraha, Ward No.-07, P.S.- Sour Bazar, Distt.- Saharsa.
3. Kishore Yadav S/o Kamo Yadav @ Kameshwar Yadav R/V- Arraha, Ward No.-07, P.S.- Sour Bazar, Distt.- Saharsa.
4. Phool Kumar @ Suraj Kumar S/o Bijendra Yadav R/V- Arraha, Ward No.-07, P.S.- Sour Bazar, Distt.- Saharsa.
5. Rahul Kumar @ Rahul Kumar Yadav S/o Bipin Yadav R/V- Arraha, Ward No.-07, P.S.- Sour Bazar, Distt.- Saharsa.

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate
For the Opposite Party/s : Mr. Shailendra Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

2 24-07-2021 As prayed for, let the learned counsel appearing for the petitioners remove the defect(s), as pointed out by the office vide its notes dated 26.12.2020, within four weeks of starting of Court proceeding in physical mode in normal course.

Heard learned counsel for the petitioners and the learned A.P.P. for the State through video conferencing.

The petitioners apprehend their arrest in connection with Sour Bazar P.S. Case no. 466 of 2019,



registered under Sections 147, 148, 149, 341, 323, 307, 384, 379, 504 and 506 of the Indian Penal Code and subsequently Section 302 of the I.P.C. has been added.

The accusation is that 29 persons named in the F.I.R., including the petitioners, variously armed with weapons came at the purchased land of the informant Niraj Kumar and started to capture the same by putting peg and pillar, when the informant made protest then on the order of Suresh Yadav and Raja Ram Yadav, Rahul Kumar (petitioner No.5) fired through rifle, which passed nearby the temple of the informant. In the meantime, Dinesh Yadav, father of the informant, reached there then Mithlesh Yadav and Bijendra Yadav gave Farsa blow to him, as a result, he fell down. When Pawan Yadav, cousin grandfather of the informant, rushed there then Arun Yadav and Kishore Yadav (Petitioner No.3) caused injury to him through rod resulting he fell down. Thereafter, all started indiscriminate firing and entered in the house of Sikandar Yadav, cousin uncle of informant, and took cash of Rs. 50,000/- as well as ornaments by breaking the box. Thereafter, all moved from there giving threatening for dire consequences in case of not giving ransom of Rs. One Lakh. Thereafter, injured were rushed to P.H.C. Sour Bazar from



where, taking the serious condition of Dinesh Yadav, father of informant, he was rushed to Saharsa for better treatment, but he died in course of treatment after ten days.

Learned counsel for the petitioners submits that while petitioner No.1 Kailash Yadav, petitioner No.2 Nandan Yadav and petitioner No.4 Phool Kumar @ Suraj Kumar are named in the F.I.R., but, no overt act has been attributed against them. Further submission is that while it is alleged that petitioner No.5 Rahul Kumar @ Rahul Kumar Yadav fired upon the informant, but the firing was not hit to him and petitioner No. 3 Kishore Yadav is said to cause injury along with Arun Yadav to Pawan Yadav, cousin grandfather of informant. Further submission is that occurrence of Marpit took place due to land dispute in which petitioners' side also sustained injury regarding which Sour Bazar P.S. Case No. 467 of 2019 was instituted on 26.11.2019 for the offence under Sections 147, 148, 149, 341, 323, 324, 379, 504 and 506 of the Indian Penal Code on the basis of fardbeyan of Kendula Devi, wife of co-accused Bipin Yadav against 36 persons.

Having regard to the facts and circumstances of the case, let the petitioner Nos. 1, 2 and 4, namely, Kailash Yadav, Nandan Yadav and Phool Kumar @ Suraj Kumar, be



released on bail, in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Saharsa in connection with Sour Bazar P.S. Case No. 466 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

So far as petitioner Nos. 3 and 5, namely, Kishore Yadav and Rahul Kumar @ Rahul Kumar Yadav are concerned, having considered the facts and circumstances of the case and the nature of allegation against them, I am not inclined to grant pre-arrest bail to the petitioner Nos. 3 and 5, namely, Kishore Yadav and Rahul Kumar @ Rahul Kumar Yadav. Accordingly, their prayer for grant of pre-arrest bail stands **rejected**.

(Rajendra Kumar Mishra, J)

manish/-

U		T	
---	--	---	--

