

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 38239 of 2020

Arising Out of PS. Case No.-332 Year-2020 Thana- BAJPATTI District- Sitamarhi

1. Md. Mustufa Nadaf @ Bholu @ Md. Mustafa Nadaf @ Md. Mustufa, aged about 52 years, Gender-Male, son of Late Safi Nadaf.
2. Tamanna @ Tamanne Sah @ Md. Tamanna, aged about 31 years, Gender-Male, son of Md. Sam Diya @ Yusuf Sah.
Both are resident of Village- Muraul @ Moraul, PS- Bajpatti, District-Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Dr. Alok Kumar Alok, Advocate
For the State	:	Mr. Ashok Kumar Singh No. 1, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 06-08-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioners on 03.08.2021, which was allowed.

3. Heard Dr. Alok Kumar Alok, learned counsel for the petitioners and Mr. Ashok Kumar Singh No. 1, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioners apprehend arrest in connection with Bajpatti PS Case No. 332 of 2020 dated 16.08.2020, instituted



under Sections 147, 148, 149, 341, 323, 333, 337, 324, 307, 353, 188 of the Indian Penal Code.

5. The allegation against the petitioners, who are named along with 17 others and 100-150 unknown persons, is that at the time of immersion of image of God Krishna, they were quarreling amongst themselves and they had also organized the same in violation of the COVID 19 guidelines promulgated by the government and when the informant, who is a Sub Inspector of Police, arrived with force at the place and tried to restore peace and order, the accused attacked the force by brick-bats, lathi, danda and sword and prevented them from discharging their official duty which also resulted in injuries to the police personnel in which two accused persons were arrested at the spot.

6. Learned counsel for the petitioners submitted that they have been falsely implicated as they were not doing any overt act and have been named with ulterior motive by the Chukidaar. It was submitted that even as per the FIR, a large mob was there and the three police personnel, who have been injured, have received simple injury. It was submitted that the petitioners have no other criminal antecedent. Learned counsel submitted that co-accused Ismail Nadaf @ Md. Ismail, Md.



Anwarul @ Md. Anwar, Md. Kashif @ Kashif Hussain and Md. Mahboob @ Mahfooj Shafi have been granted anticipatory bail by a coordinate Bench by order dated 22.06.2021 passed in Cr. Misc. No. 40722 of 2020 and further that co-accused Vinay Mahto; Bhushan Kumar; Govind Kumar; Mithu Kumar; Babloo Chaudhary and Chhathu Mahto @ Chhato Bhagat, have also been granted anticipatory bail by judgment and order dated 16.07.2021 passed in Cr. Misc. No. 40871 of 2021. Learned counsel submitted that the petitioners are similarly situated to the aforesaid accused who have been granted anticipatory bail.

7. Learned APP submitted that the petitioners have been identified by the *Chaukidar* and have been named in the FIR.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the petitioners having no criminal antecedent and there being a mob of almost 150 persons and without there being any specific overt act alleged against any person and the injuries on three police personnel being simple as also the fact that many similarly situated co-accused have been granted anticipatory bail, the Court is inclined to grant pre-arrest bail to the petitioners.



9. Accordingly, 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 SDJM Pupri Sitamarhi in Bajpatti PS Case No. 332 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 petition stands disposed of in the
aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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