

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 252 of 2021**

Arising Out of PS Case No.-288 Year-2020 Thana- UCHKAGAON District- Gopalganj

1. Kuer Vijai Sharma @ Dhaneshwar Sharma, Male, aged about 45 years.
 2. Bharat Sharma, Male, aged about 30 years.
 3. Amarjeet Sharma, Male, aged about 33 years.
 4. Chandan Sharma, Male, aged about 27 years.
- All are sons of Late Shriram Sharma, Resident of Village - Barari Jagdish,
PS- Uchkagaon, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vyas Kumar Mishra, Advocate
For the State	:	Mr. Sanjay Kumar Singh, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 22-03-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Vyas Kumar Mishra, learned counsel for the petitioners and Mr. Sanjay Kumar Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. Earlier by order dated 12.03.2021, the application on behalf of petitioner no. 1, namely, Kuer Vijai Sharma @ Dhaneshwar Sharma was disposed off as withdrawn and was restricted to petitioners no. 2, 3 and 4 namely, Bharat Sharma, Amarjeet Sharma, and Chandan Sharma, respectively.



4. The petitioners no. 2, 3 and 4 apprehend arrest in connection with Kateya PS Case No. 288 of 2020 dated 30.08.2020, instituted under Sections 341, 323, 342, 307, 353, 504 and 506/34 of the Indian Penal Code.

5. The allegation against the petitioners, who are family members, is of being armed with *lathi*, *danda* and brickbats and holding hostage the officers who had gone to remove encroachment for implementation of *Nal Jal Yojana* under the *Mukhyamantri Saat Nischay Yojna*.

6. Learned counsel for the petitioners submitted that they have been falsely implicated to save the officials who, without taking action in accordance with law, have lodged a false case. It was submitted that the FIR itself, it is stated that earlier the informant had gone to the place and finding encroachment had orally asked the persons to remove the same and when the second time round, he came for making construction, the encroachment had not been removed. Learned counsel submitted that this clearly shows that the action of the informant side was totally illegal as law requires that even if there is encroachment, the same can be removed only by the due process of law after a regular proceeding and a show cause notice to the alleged encroacher which admittedly has not been done in the present case. It was submitted



that the petitioners have no criminal antecedent. Further, learned counsel submitted that from the FIR itself, it is clear that no violence was resorted to by the petitioners and there was no injury, either to the person of the officials or Government property.

7. Learned APP submitted that the petitioners had taken hostage the officials who had to be rescued by the police.

8. 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 petitioner no. 2 namely, Bharat Sharma petitioner no. 3 namely, Amarjeet Sharma and petitioner no. 4 namely, Chandan Sharma 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 learned Chief Judicial Magistrate, Gopalganj in Kateya PS Case No. 288 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 said petitioners, (ii) that the said petitioners and the bailors shall execute bond with regard to good behaviour of the said petitioners, and (iii) that the said 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 said 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.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the said petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the concerned petitioners.

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

(Ahsanuddin Amanullah, J.)

P. Kumar

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