

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 5537 of 2021

Arising Out of PS. Case No.-219 Year-2018 Thana- BARAULI District- Gopalganj

1. Brajesh Chaudhary, aged about 27 years, Gender-Male, Son of Hanshnath Chaudhary, Resident of Village Sonbarsha PS Barauli, District-Gopalganj.
2. Langar Patel, aged about 21 years, Gender-Male, Son of Dulam Patel, Resident of Village Sonbarsha PS Barauli, District-Gopalganj.
3. Kishchan Chaudhary, aged about 32 years, Gender-Male, Son of Hiralal Chaudhary Resident of Village Allapur PS Barauli, District-Gopalganj.
4. Upendra Chaudhary, aged about 42 years, Gender-Male, Son of Parsuti Chaudhary, Resident of Village Allapur PS Barauli, District-Gopalganj.
5. Sanjay Chaudhary, aged about 32 years, Gender-Male, Son of Balister Chaudhary, Resident of Village Allapur PS Barauli, District-Gopalganj.
6. Suresh Chaudhary, aged about 37 years, Gender-Male, Son of Harihar Chaudhary, Resident of Village Allapur PS Barauli, District-Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Indrajeet Bhushan, Advocate

For the State : Mr. Pawan Kumar Chaurasia, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 16-08-2021

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 09.08.2021, which was allowed.



3. Heard Mr. Indrajeet Bhushan, learned counsel for the petitioners and Mr. Pawan Kumar Chaurasia, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioners apprehend arrest in connection with Barauli PS Case No. 219 of 2018 dated 29.09.2018, instituted under Sections 147, 148, 149, 341, 323, 324, 307, 353, 332, 333, 427, 504 and 506 of the Indian Penal Code.

5. As per the FIR, the petitioners along with 48 others named and 150 unknown persons are accused of blocking a road and creating nuisance by burning fire and accumulating brickbats.

6. Learned counsel for the petitioners submitted that at best, the only allegation against them is of being member of the mob. It was submitted that the main allegation is against co-accused Deepak Kumar Singh @ Dimpal Singh as well as Narad Chaudhary, who are said to be leading the mob and instigating to raise slogans and also attack the police administration and further that the said two accused had also blocked the road at another place. Learned counsel submitted that basically the protest was with regard to the murder of a co-villager, namely, Brajesh Kumar Yadav, who was a truck driver. Learned counsel submitted that there is no damage caused either to any property or to any person.



He contended that even with regard to obstructing public servant in discharge of his duty, the same is general and omnibus against a huge crowd. Learned counsel submitted that it is surprising that 54 persons would be identified in a crowd as their names have been disclosed in the FIR itself. He submitted that the petitioners have no other criminal antecedent. Learned counsel submitted that co-accused Deepak Kumar Singh @ Deepak Surjbanshi @ Dimpal Singh along with three other co-accused has been granted anticipatory bail by a co-ordinate Bench by order dated 05.03.2020 passed in Cr. Misc. No. 13267 of 2020 and Narad Chaudhary has also been granted anticipatory bail by a co-ordinate Bench by order dated 06.03.2020 passed in Cr. Misc. No. 12676 of 2020. Learned counsel submitted that many other similarly situated persons have also been enlarged on anticipatory bail by various orders.

7. Learned APP submitted that the petitioners were also members of the mob.

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 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 ACJM XIV, Gopalganj in Barauli PS Case No. 219 of 2018, 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.

9. 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.



10. The petition stands disposed of in the
aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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