

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4546 of 2021

Arising Out of PS. Case No.-6 Year-2020 Thana- RAXAUL RAIL P.S. District- West
Champaran

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1. Vishambhar Sah, Son of Gopal Sah, Resident of Village - Tinkoni Ward No.5, P.S.- Darpa, Distt.- East Champaran
 2. Manjan Sah, Son of Jagarnath Sah, Resident of Village - Pipara, P.s.- Darpa, Distt.-East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioners	:	Mr.Rajesh Kumar, Advocate
For the S t a t e	:	Ms.Rina Sinha, APP
For the Informant	:	Mr. Vikash Kumar Pankaj, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

7 16-09-2021 The matter has been listed today for consideration through video conferencing.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.

Heard learned counsel for the petitioners and the learned counsel for the informant as well as the learned APP for the State, who have jointly opposed the prayer for bail.

The petitioners seek bail in connection with Raxaul Rail P.S. Case No.6 of 2020 instituted for the offence punishable under Sections 147, 148, 149, 307 and 302 of the



Indian Penal Code and Section 27 of the Arms Act.

It is alleged that the informant's brother, while he was on his way home has been shot at. Informant has identified the petitioners by name.

It is submitted by the petitioners' counsel that as per the narration of occurrence contained in the FIR, informant has arrived after firing was done and he cannot be said to be an eye-witness to the occurrence. Petitioner Nos.1 and 2 have been in custody now since 14.05.2020 and 12.05.2020 respectively.

The submission is that petitioners' implication is based on extraneous considerations and it is a case of false implication, which is evident from the fact that the FIR has been lodged after two days of the alleged occurrence.

Learned counsel for the informant has strenuously opposed the prayer for bail. He has stated that in paragraph 3 of the bail application, all the antecedents of the petitioners have not been disclosed.

In reply, counsel for the petitioners submits that a supplementary affidavit has been filed stating that due to miscommunication, the *Pairvikar* did not give the details of all antecedents and as per the disclosure made in the supplementary affidavit, now all the criminal antecedents have been brought on



record. The same discloses that there are cases in relation to possession of arms, theft etc. against the accused persons since before.

Learned APP as well as learned counsel for the informant has opposed the prayer by submitting that the petitioners are named accused.

Considering the rival submissions as also the facts and circumstances of the case, this Court for the purposes of grant of bail is inclined to accept the submissions advanced by the petitioners' counsel. Prayer for bail of the petitioners is allowed.

Accordingly, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, Narkatiyaganj, Bettiah, in connection with Raxaul Rail P.S. Case No.06 of 2020, subject to the following conditions:

(i) That one of the bailors of each of the petitioners will be a close relative of the petitioners who will give an affidavit giving genealogy as to how he is related with the petitioners concerned. The bailors will also undertake to inform the court if there is any change in the address of the petitioners.

(ii) That the petitioners will be



well represented on each date and if they fail to do so on two consecutive dates, their bail bonds will be liable to be cancelled.

This Court would expect that the petitioners’ counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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