

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.7049 of 2021**

Arising Out of PS. Case No.-402 Year-2020 Thana- BHABHUA District- Kaimur (Bhabua)

1. BINOD SINGH Son of Late Kailash Singh @ Kailash Pati Singh Resident of Village/ Mohalla- Bhabhua Ward No.20, P.S.- Bhabhua, Distt- Kaimur (Bihar)
2. PRAMOD SINGH Son of Late Kailash Singh @ Kailash Pati Singh Resident of Village/ Mohalla- Bhabhua Ward No.20, P.S.- Bhabhua, Distt- Kaimur (Bihar)

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Kali Prasanna Dubey, Advocate
For the Informant	:	Mr. Tribhuvan Narayan, Advocate
For the Opposite Party/s	:	Mr. Md. Fahimuddin, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 16-04-2021 Learned counsel for the petitioners undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioners, learned counsel for the informant and Mr. Md. Fahimuddin, learned A.P.P. for the State.

Petitioners in the present case are seeking regular bail in connection with Bhabhua (Sonhan) P.S. Case No. 402 of 2020 registered for the offences punishable under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

Learned counsel for the petitioners submits that from



the First Information Report itself it will appear that both the parties had a land dispute and the alleged occurrence has taken place over ploughing of the field. As per the prosecution story, altogether six accused reached on the field lashed with arms and on the instigation of petitioner no. 1, co-accused Rameshwar Singh fired from his rifle upon the brother of the informant who fell down and ultimately died.

Learned counsel for the petitioners submits that it is a case of false implication and the entire family of the petitioners have been made accused in this case. So far as petitioner no. 1 is concerned, it is alleged that he had instigated the co-accused Rameshwar Singh for firing which is a completely false and baseless allegation, he has been named as an order giver and it has been the practice of this Court to allow bail to the alleged order giver. So far as petitioner no. 2 is concerned, he is said to be a member of the unlawful assembly but no overt act has been alleged against him.

It is further submitted that both the petitioners have remained in jail in connection with the present case since 1 July, 2020, the main accused Rameshwar Singh has already surrendered and he is in custody.

Learned counsel for the informant as well as learned A.P.P. for the State have opposed the prayer for regular bail of



these petitioners. Learned counsel for the informant submits that these petitioners were present on the spot who had allegedly participated in the occurrence.

Having regard to the facts and circumstances of the case and the submissions of learned counsel for the petitioners wherein this Court has noticed that so far as petitioner no. 1 is concerned, he is said to be the order giver, however, petitioner no. 2 has been made accused as a member of unlawful assembly, no overt act has been alleged against him. Both the petitioners have remained in jail for over nine months, investigation against them is complete, the main assailant is in custody, further incarceration of the petitioners in jail is not likely to come in aid of the investigation or the prosecution, the petitioners have otherwise no criminal antecedent, in the nature of the disputes and the materials placed before this Court, let the petitioners above named be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Kaimur, Bhabhua in connection with Bhabhua (Sonhan) P.S. Case No. 402 of 2020 subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,



(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

