

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2195 of 2022

Arising Out of PS. Case No.-7 Year-2021 Thana- EKCHARI District- Bhagalpur

1. Jogmani Mandal Son of Devidas mandal @ Devi Mandal Resident of Village - Chhoti Mohanpur, P.s.- Ekchari, Distt.- Bhagalpur.
2. Chandrika Mandal Son of Garib Mandal Resident of Village - Chhoti Mohanpur, P.s.- Ekchari, Distt.- Bhagalpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Anand

For the Opposite Party/s : Mr. Shahabuddin Azeem @ S. Azeem

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 14-11-2022 Heard learned counsel for the petitioners and

learned APP for the State.

The petitioners seek bail in connection with S. Tr.

No. 409 of 2021 arising out of Ekchari P.S. Case No. 07 of

2021, registered for the offences punishable under Sections

353, 307 and 34 of the Indian Penal Code and Sections

25(1-b)a, 26, 27 and 35 of Arms Act.

The prosecution case as emerges from the F.I.R. is

that there was encounter between the Police and the gang of

Chndrashekhar Kapri. It is further alleged that there was

firing from both sides in which two members of the gang,



namely, Chandrashekhar Kapri and Manohar Mandal got killed by the Police.

The learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in this case. He submits that in fact this F.I.R. has been lodged against these accused persons, allegedly members of a gang, to save the skin of the Police for fake encounter. He also submits that even as per the FIR, there is no injury caused to any Police personnel and alleged recovery of arms is totally planted to implicate the innocent persons and to save the skin of the Police personnel involved in the fake encounter. He also submits that in fact this is a case of violation of Human Rights and matter should be investigated against the Police for the so-called encounter. He further submits that similarly situated accused person, namely, Jaikant Mandal has already been enlarged on bail by a co-ordinate Bench of this Court vide order dated 17.05.2022, passed in Cr. Misc. No. 54487 of 2021.

The petitioner has been languishing in jail since 17.03.2021.



It is also stated in paragraph no. 2 of the petition that have never moved before this Court for grant of anticipatory bail or regular bail.

It has further been stated in paragraph no. 3 of the petition that the petitioner no. 1, namely, Jogmani Mandal has no criminal antecedent, whereas petitioner no. 2, namely, Chandrika Mandal has earlier been made accused in one more case, namely, Ekchari P.S. Case No. 48 of 2017.

However, the learned APP for the State opposes the prayer of the petitioner for bail.

Considering the aforesaid facts and circumstances, the petitioners, above-named, are directed to be released on bail on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the Ld. A.D.J. IVth, Bhagalpur in connection with S. Tr. No. 409 of 2021 arising out Ekchari P.S. Case No. 07 of 2021, on the following conditions:

(i) The petitioners will make themselves available for interrogation by a police officer/court as and when



required.

(ii) The petitioners will undertake that investigation/trial will not hamper on account of their absence or non-cooperation. They must be available to the police or the court whenever their presence is required.

(iii) The petitioners 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 them from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the petitioners have criminal antecedent other than the disclosed one, the learned court below shall cancel the bail bond of the petitioners after hearing them and getting satisfied that the petitioners have concealed their criminal antecedent despite their knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, the learned court below shall cancel the bail bond of the petitioners.



The application stands allowed accordingly.

The learned counsel for the petitioners is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J)

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