

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16936 of 2021

Arising Out of PS. Case No.-1048 Year-2019 Thana- SAHARSA SADAR District- Saharsa

1. GANGA SAH Son of Saryug Sah Resident of Village - Hario, P.S.- Simri Bakhtiarpur, Distt.- Saharsa.
2. Basant Sah Son of Late Ashik Lal Sah @ Late Shiklal Sah Resident of Village - Hario, P.S.- Simri Bakhtiarpur, Distt.- Saharsa.
3. Bhupendra Kumar @ Bhupen Sah@ Bhupen Kumar Son of Ashok Sah Resident of Village - Hario, P.S.- Simri Bakhtiarpur, Distt.- Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shiva Shankar Sharma, Advocate

For the Opposite Party/s : Mr.Umesh Lal Verma, Mr. Ashok Kr. Mishra

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 31-01-2022 Due to the third wave of COVID-19 Pandemic, the matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading 'For Orders' under the orders of Hon'ble the Chief Justice.

Heard learned counsel for the petitioners and learned APP for the State through virtual mode.

The petitioners are apprehending their arrest in a case registered under Sections 302, 34 of the Indian Penal Code and 27 of the Arms Act.

The prosecution allegation, in short, is that while the informant along with his wife was on the way, accused persons surrounded them and on the order of petitioner no. 1, co-accused



fired upon the informant which hit the wife of the informant due to which she died.

It has been submitted on behalf of the petitioners that the petitioner nos. 2 and 3 have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioners. The petitioners have falsely been implicated in the present case. The petitioner no. 1 is alleged to be order giver. There is no allegation of assault alleged against petitioner no. 1. So far petitioner nos. 2 and 3 are concerned, they are the member of unlawful assembly. The main allegation of assault as per the F.I.R. is alleged against co-accused Roshan Sah who is alleged to have fired upon the informant which hit the wife of the informant and thereafter she succumbed to the injury. The police after investigation had submitted a final form against the petitioners but the Court below had differed with the police report and took cognizance of the offence against the petitioners.

On behalf of the State, it is submitted that the petitioners are named in the F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of covid cases due to outbreak of third wave of Covid-19 pandemic. Further this Court can also not lose sight of the fact that the condition of jails is not conducive and suitable to the present situation which has arisen



due to the sudden rise in covid cases.

Considering the aforesaid facts and circumstances, the petitioners, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on their personal bonds to the satisfaction of learned Chief Judicial Magistrate, Saharsa in connection with Saharsa Sadar P.S. Case No. 1048 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioners shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) each with two sureties of the like amount each within a period of eight weeks to the satisfaction of the Court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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