

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17834 of 2021

Arising Out of PS. Case No.-268 Year-2020 Thana- GHANSHYAMPUR District- Darbhanga

1. Dilip Jha @ Dilip Kumar Jha S/O Raghunandan Jha R/O Vill Adharpur Ps Ghanshyampur District Darbhanga At Present R/O Rajendra Path Lalji Tola P.S Gandhi Maidan District- Patna
2. Anil Jha S/O Shibji Jha R/O Village-Adharpur, P.S-Ghanshyampur, District-Darbhangha, At Present R/O Nehru Nagar, Vile Parle West, Mumbai-56
3. Lalan Jha S/O Late Satya Narayan Jha R/O Village-Adharpur, P.S-Ghanshyampur, District-Darbhangha.

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Tuhin Shankar, Advocate
For the State	:	Mr. Manoj Kumar, APP
For the Informant	:	Mr. Pankaj Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 15-02-2022 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, learned APP for the State and learned counsel for the informant through virtual mode.

A counter affidavit has been filed on behalf of the informant stating in paragraph 8 thereof that process under Section 82 Cr.P.C. has been issued by the Court below. In course of argument, it was submitted on behalf of the informant that the



process under Section 83 Cr.P.C. has also been issued by the Court below and the present anticipatory bail application is not maintainable.

Mr. Tuhin Shankar, learned counsel for the petitioner was directed to file an affidavit stating whether any order has been passed by the Court below under Section 83 of the Cr.P.C. or not. A supplementary affidavit has been filed on behalf of the petitioner specifically stating in paragraph no. 2 thereof that no order under Section 83 Cr.P.C. has been passed and, hence, the anticipatory bail is maintainable.

Having considered the submissions and pleadings as made on behalf of the parties and taking into account that no order, till date, has been passed under Section 83 Cr.P.C. by the Court below, the present anticipatory bail application is maintainable.

Learned counsel for the petitioners is directed to remove the defects, as pointed out by the Office, within a period of four weeks after restoration of normalcy.

The petitioners are apprehending their arrest in a case registered under Sections 147, 148, 149, 341, 347, 323, 324, 354(B), 427, 504 and 506/34 of the Indian Penal Code.

The prosecution allegation, in short, is that the accused



persons including the petitioners tried to assault the wife of the informant sexually and also looted mobile and snatched money and ornaments.

It has been submitted on behalf of the petitioners that the petitioners 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. From perusal of the F.I.R., it appears that except for Section 354(B) IPC, all the offences are bailable. Prior to the institution of the present case, a case was instituted by the petitioners' side against the informant family for abduction of one of the family members and for the said reason, after three days, the present case has been instituted. The present prosecution is a mala fide prosecution.

On behalf of the State and the informant, 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 A.C.J.M.- 3rd Darbhanga in connection with Ghanshyampur P.S. Case No. 268 of 2020, 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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