

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9350 of 2022

Arising Out of PS. Case No.-257 Year-2021 Thana- HATHUA District- Gopalganj

Hemant Kumar Rai @ Hemant Rai, Son Of Keshaw Rai, R/O Village-Chainpur, P.S.- Hathua, District- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 23764 of 2022

Arising Out of PS. Case No.-257 Year-2021 Thana- HATHUA District- Gopalganj

Keshav Rai, Son of Late Ramnihora Rai, Resident of Village - Chainpur, P.S.- Hathua, District - Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 9350 of 2022)

For the Petitioner/s : Mr. Ravindra Kumar, Advocate

For the Opposite Party/s : Mr. Anil Kumar, APP

(In CRIMINAL MISCELLANEOUS No. 23764 of 2022)

For the Petitioner/s : Mr. Pankaj Kumar Dubey, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 27-07-2022 Since both the applications arise out of Hathua P.S. Case No. 257 of 2021, as such, they have been heard together and are being disposed of by this common order.

Heard learned counsel for the petitioners and learned APP for the State.

Let the defect (s), as pointed out by the office, be



removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioners seek bail in connection with Hathua P.S. Case No. 257 of 2021 registered for the alleged offences under Sections 25(1-b)a, 26 and 35 of the Indian Arms Act.

The prosecution case is that the house of the petitioners was raided by the police on receiving information about petitioners and co-accused persons assaulting the villagers and brandishing the arms. Petitioner Hemant Kumar Rai was apprehended from his house and a large number of arms and ammunitions were recovered from different parts of the house.

The learned counsels for the petitioners submit that the petitioners are innocent and have been falsely implicated in this case due to political rivalry with one Umesh Sahi who has lodged Hathua P.S Case No. 256 of 2021 against the whole family of the petitioners. The petitioners are father and son and other co-accused persons are family members of these petitioners. The occurrence took place in the background of election dispute over candidature of Mukhiya as the mother of the petitioner Hemant Kumar Rai was a candidate whereas the sister-in-law of Umesh Sahi was also a candidate. The informant



side wanted these petitioners to withdraw in favour of their candidate for which they refused and alleged occurrence took place. The recovery has been shown not from the inside of the house, but from the verandah and other outside places of the house and the arms and ammunitions were planted by the opposite side. The learned counsel further submits that the petitioner Hemant Kumar Rai was present in the house and if he was guilty, he would have escaped from the house. Moreover, he has been working in a Steel factory in Maharastra and became the victim of the circumstances. There is no allegation against him for firing nor the seized articles belong to him. It has further been submitted on behalf of the petitioner, Keshav Rai that he is an old man and suffering from various types of ailments. He is in custody since 19.01.2022 whereas petitioner Hemant Kumar Rai is in custody since 30.11.2021. The charge-sheet has been submitted in this case.

Learned APP opposes the prayer for bail submitting that the petitioner Keshav Rai is having long criminal history whereas this petitioner, Hemant Kumar Rai has also criminal antecedent. The petitioner and co-accused persons assaulted the informant of Hathua P.S. Case No. 256 of 2021 and they tried to kill him.



Having regard to the submissions made hereinabove and considering the fact that the allegation against the petitioners is that different arms and ammunitions were recovered from their house and there is hardly anything of substance to show their possession of these arms and ammunitions as well as use of it for any particular purpose and further considering the period of custody as well as the submission of charge-sheet, the petitioners above named are directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, XIVth, Gopalganj, in connection with Hathua P.S. Case No. 257 of 2021, subject to the following conditions :

- (i) The bail bond of the petitioners will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close relative of the petitioners.
- (iii) The petitioners will remain present on each and every date fixed by the court below.
- (iv) The petitioners will not commit similar type



of offences in future.

(v) In case of absence for three consecutive dates or in violation of the terms of the bail, the bail bonds of the petitioners will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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