

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2538 of 2022

Arising Out of PS. Case No.-55 Year-2021 Thana- SONBERSA District- Saharsa

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Kundan Kumar Yadav @ Kundan Kumar @ Kundan Yadav Son Of
Dhaneshwar Yadav R/O Village- Navtoliya, Ward No.1, P.S.- Sonbarsa Raj,
District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 10577 of 2022

Arising Out of PS. Case No.-55 Year-2021 Thana- SONBERSA District- Saharsa

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Dhaneshwar Yadav Son Of Late Bhola Yadav Resident Of Village -
Navtoliya, Ward No. 1, P.S. - Sonbarsa Raj, District - Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 30127 of 2022

Arising Out of PS. Case No.-55 Year-2021 Thana- SONBERSA District- Saharsa

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Kamleshwari Yadav Son of Late Dhaneshwar Yadav R/O Village- Navtolya,
Ward No.-01, P.S.- Sonbarsa Raj, District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 2538 of 2022)

For the Petitioner/s : Ms. Rashmi Jha

For the Opposite Party/s : Mr. Akshay Lal Pandit

(In CRIMINAL MISCELLANEOUS No. 10577 of 2022)

For the Petitioner/s : Ms. Rashmi Jha

For the Opposite Party/s : Mr. Anand Mohan Prasad Mehta

(In CRIMINAL MISCELLANEOUS No. 30127 of 2022)

For the Petitioner/s : Ms. Pooja Kumari

For the Opposite Party/s : Mr. Ganesh Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

4 15-11-2022 Heard learned counsel for the petitioner and
learned APP for the State.

The petitioners seek bail in connection with Sonbarsa Raj P.S. Case No. 55 of 2021, registered for the offences punishable under Sections 341, 323, 354, 379, 504 and 506/34 of the Indian Penal Code whereas section 302 of the Indian Penal Code has been added on 18.06.2021.

The prosecution case as emerges from the FIR is that when the informant along with his family was constructing the cattle shed, the accused-petitioner along with his associates came there and assaulted them. They also snatched ornaments and robbed some cash and fled away.

The learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in this case. They further submit that the FIR was initially lodged u/s 341, 323, 354, 379, 504, 506 read with Section 34 of the Indian Penal Code, but later on Section 302 of the IPC was also added on account of death of the brother of the



informant. They further submit that there was free fight between both sides and counter case has also been filed by the side of the petitioners. It is further submitted that death of the brother of the informant is not connected with the altercation took place on the date of occurrence. It is further submitted that there is no specific allegation against any of the accused-petitioners because allegation is general and omnibus in nature. It is also submitted that similarly situated co-accused persons, namely, Ganesh Yadav, Nandan Yadav, Sanjan Devi, Mira Devi and Mankiya have been enlarged on anticipatory bail by the coordinate Benches of this court vide Order dated 05.09.2022, passed in Cr. Misc. No. 9923 of 2022 and in Cr. Misc. No. 8737 of 2022, respectively.

Petitioners, namely, Kundan Kumar, Kamlesh Tiwari and Dhaneshwar Yadav have been languishing in jail since 19.06.2021, 27.01.2022 and 27.08.2021 respectively.

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



It has further been stated in paragraph no. 3 of the petitioner, namely, Kundan Kumar has no criminal incident and petitioners, namely, Kamleshwaqri Yadav and Dhaneshwar Yadav has been made accused in one more case each.

However, the learned APP for the State vehemently opposes the prayer of the petitioner for bail stating that the alleged offence is serious in nature.

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. Sri. Rajesh Kumar-VI, Judicial Magistrate, 1st Class, Saharsa in connection with Sonbarsa Raj P.S. Case No. 55 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 him 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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