

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12378 of 2022

Arising Out of PS. Case No.-66 Year-2017 Thana- MOKAMAH District- Patna

1. DEEPU YADAV, Son of Lutan Yadav Resident of village - Kanhaipur, P.S. - Mokama, District - Patna.
2. Nageshwar Yadav, Son of Lutan Yadav Resident of village - Kanhaipur, P.S. - Mokama, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Premchandra Yadav

For the Opposite Party/s : Mr. Mohammad Sufyan

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL ORDER

4 17-08-2022 Heard learned counsel for the petitioner and

learned APP for the State.

The petitioners seek bail in connection with Mokama P.S. Case No. 66 of 2017, registered for the offences punishable under Sections 307, 326/34 of the Indian Penal Code and Section 27 of the Arms Act.

As per allegation, when the informant's brother, namely, Umesh Yadav was cultivating his field, the



petitioners along with their associates came there and started quarrel with him. It is further alleged that on the order of one Shyam Sundar Yadav, his son, namely, Nitish Kumar fired at the deceased, causing injury to his right hand.

The learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in this case. He further submits that there is no direct allegation against the petitioners and the main allegation is against Shyam Sundar Yadav, because as per the F.I.R. on the order of Shyam Sundar Yadav, Nitish Kumar fired at the victim. He also submits that the petitioners were not present at the time of occurrence and their names have been dragged in this case only because of previous enmity. He further submits that the co-accused namely, Shyam Sundar Yadav has already been enlarged on bail by a co-ordinate Bench of this Court vide order dated 27.02.2019, passed in Cr. Misc. No. 11424 of 2019.

It is also stated in paragraph no. 2 of the petition that the petitioners have never moved before this Court for



grant of anticipatory bail or regular bail.

It has further been stated in paragraph 3 of the petition that the petitioner no. 1, namely, Deepu Yadav has earlier been made accused in fifteen other cases, namely Mokama P.S. Case No. 139 of 2007, Mokama P.S. Case No. 164 of 2007, Mokama P.S. Case No. 235 of 2009, Mokama P.S. Case No. 212 of 2011, Mokama P.S. Case No. 213 of 2011, Mokama P.S. Case No. 214 of 2011, Mokama P.S. Case No. 6 of 2012, Mokama P.S. Case No. 32 of 2012, Mokama P.S. Case No. 34 of 2012, Mokama P.S. Case No. 53 of 2012, Mokama P.S. Case No. 55 of 2012, Mokama P.S. Case No. 52 of 2015, Mokama P.S. Case No. 51 of 2016, Mokama P.S. Case No. 166 of 2015 and Mokama P.S. Case No. 165 of 2017 criminal antecedents and out of them in fourteen cases, he is on bail. He further submits that petitioner no. 2, namely, Nageshwar Yadav, has earlier been made accused in nine other cases, namely Mokama P.S. Case No. 139 of 2007, Mokama P.S. Case No. 164 of 2007, Mokama P.S. Case No. 235 of 2009, Mokama P.S. Case No. 212 of 2011, Mokama P.S. Case No. 213 of 2011,



Mokama P.S. Case No. 214 of 2011, Mokama P.S. Case No. 34 of 2012, Mokama P.S. Case No. 51 of 2016 and Mokama P.S. Case No. 06 of 2012 and out of them, in eight cases he is on bail.

The petitioners have been languishing in jail since 03.02.2021 i.e. more than 18 months.

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

Considering the aforesaid facts and circumstances, particularly the nature of allegation and the period of custody of the petitioners, they 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 learned A.C.J.M. II, Barh, Patna, in connection with Mokama P.S. Case No. P.S. case No. 66 of 2017 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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