

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29778 of 2021

Arising Out of PS. Case No.-705 Year-2020 Thana- MAJHAULIA District- West Champaran

1. Hari Mahto S/O Birchha Mahto R/O Village Birwa, P.S.-Majhauilya, District-West Champaran.
2. Gulshan Kumar @ Gulsham Kumar S/O Hari Mahto R/O Village Birwa, P.S.-Majhauilya, District-West Champaran.
3. Chhotan Mahto @ Chhotal Kumar S/O Mahavir Mahto R/O Village Birwa, P.S.-Majhauilya, District-West Champaran.
4. Chhotal Shrivastava @ Chhotan Kumar S/O Yogendra Shrivastava R/O Village Birwa, P.S.-Majhauilya, District-West Champaran.
5. Mitranjan Tiwari S/O Sri Naresh Tiwari R/O Village Birwa, P.S.-majhauilya, District-West Champaran.
6. Pappu Shrivastava @ Pappu Kumar Shrivastava S/O Pradeep Shrivastava R/O Village Birwa, P.S.-Majhauilya, District-West Champaran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No 7, Advocate
For the Opposite Party/s : Mr. APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 06-06-2022 Let the defects, as pointed out by the office, be removed within four weeks of starting of Court proceeding in physical mode in normal course.

Learned counsel for the petitioners submits that during the pendency of the petition, petitioner nos. 2 to 6, namely Gulshan Kumar @ Gulsham Kumar, Chhotan Mahto @ Chhotal Kumar, Chhotal Shrivastava @ Chhotan Kumar, Mitranjan Tiwari, Pappu Shrivastava @ Pappu Kumar Shrivastava have already been arrested and as such their



anticipatory bail application has become infructuous.

As prayed, the anticipatory bail petition as against petitioner nos. 2 to 6 is permitted to be withdrawn and is dismissed as such.

Heard learned counsel for the petitioner no. 1 (except petitioner nos. 2 to 6) and learned APP for the State.

The petitioner nos. 1 is apprehending his arrest in a case registered for the offences punishable under Sections 147, 148, 149, 341, 323, 332, 333, 337, 338, 353, 307, 153A, 295A, 188, 269, 270, 271 of the Indian Penal Code and Section 3 of the Epidemic Disease Management Act.

The prosecution case, in short, it is alleged by the informant, Uday Kumar, who is S.I. of Majhauria P.S. that on 15.10.2020, he got telephonic message that some villagers tied a person with pole and assaulted him. Thereafter, informant along with other officer and constables reached at the place of occurrence where he saw villagers have tied a person with pole and petitioner and co-accused assaulted him. After investigation the person disclosed his name Afsar Ali. Villagers are saying he is caste by Muslim and he abducted a Hindu girl. When police tried to release Afsar Ali then accused persons assaulted the police personnel with bricks and stones, due to which some



police officer sustained simple injuries.

Learned counsel for the petitioner no. 1 submits that it appears from the F.I.R. that the petitioner was a member of the mob and there is no specific allegation against the petitioner. He further submits that there is specific overt act against co-accused Rajnish Kumar Pandey and Dharmesh Kumar Tiwari. He further submits that in fact the petitioner was not present at the time of occurrence and the name of the petitioner has been falsely implicated in the present case due to dirty village politics.

Learned APP for the State has opposed the prayer for bail of the petitioner and submits that the petitioner no. 1 carries one more case other than the present one.

Considering the facts and circumstances of the case, let the petitioner no. 1 (except petitioner nos. 2 to 6), above named, in the event of his arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Majhauriya P.S. Case No. 705 of 2020, subject to the conditions as laid down under



Section 438(2) of the Code of Criminal Procedure and with other following conditions :-

(1) Petitioner no. 1 shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) If the petitioner no. 1 tampers with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that the court below shall verify the criminal antecedent of the petitioner no. 1 and in case at any stage, it is found that the petitioner no. 1 has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner no. 1. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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