

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27369 of 2022

Arising Out of PS. Case No.-76 Year-2021 Thana- RAJPUR District- Buxar

Ashutosh Rai Son of Umesh Rai R/o- Village- Dihari, P.S.- Rajpur, District- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 27782 of 2022

Arising Out of PS. Case No.-76 Year-2021 Thana- RAJPUR District- Buxar

Shaukat Ali Son of Riyaz Nau @ Riyaz Ansari @ Riyaz Ahmad R/o-Vill- Dihari, P.S.- Rajpur, District- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 28043 of 2022

Arising Out of PS. Case No.-76 Year-2021 Thana- RAJPUR District- Buxar

Amit Rai S/o Sri Siya Ram Rai R/o village- Dihri, P.S.- Rajpur, District- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 27369 of 2022)
For the Petitioner/s : Mr. Alok Anand, Adv.
For the Opposite Party/s : Mr. Bal Mukund Prasad Sinha, APP
(In CRIMINAL MISCELLANEOUS No. 27782 of 2022)
For the Petitioner/s : Mr. Alok Anand, Adv. with
Mr. Rakesh Kumar Sharma, Adv.
For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP
(In CRIMINAL MISCELLANEOUS No. 28043 of 2022)
For the Petitioner/s : Mr. Shree Kant Pandey, Adv.
For the Opposite Party/s : Mr. Indu Kumari Srivastava, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 13-09-2022 Let the defect(s), if any, be removed within two weeks from today.

Heard learned counsel for the petitioners, learned counsel for the informant and learned A.P.Ps. for the State.

All cases arises from the same P.S.

The petitioners seek regular bail in connection with Rajpur P.S. Case No. 76 of 2021 lodged under Sections 147, 148, 149, 341, 323, 324, 325, 307, 379, 504, 506 of the I.P.C. read with Section 27 of Arms Act.

As per the information received from the informant in the F.I.R., the 7 named accused persons including the petitioners reached at the Grahak Seva Kendra along with 10 other persons with arms had looted Rs.1,50,000/-. Specific allegation of loot is against accused Golu Rai and Ashutosh Rai (petitioner of first case). Allegation on the Golu Rai is to shot fire on Viranjan Singh and the allegation on the Ashutosh Rai to fire on Ramjit Singh who suffered injury on his chest. The allegation on the accused Shaukat Ali (petitioner of second case) is to fire by his rifle with a view to create fear, whereas there is no specific allegation against Amit Rai (petitioner of third case).

Learned counsel for the petitioners submit that this

case is absolutely false for the same date and place of occurrence. Another F.I.R. which is Annexure 2, lodged by the accused side. The counsels submit that the F.I.R. filed by the accused side is the correct story of the place of occurrence. Counsel for case no. 1 specifically submits that from the case and counter case, Ashutosh Rai as well as Ramjit Rai both suffered injury. He submits that the said Ashutosh Rai is in custody since 21.03.2022, charge sheet has already been filed in this case. He has a clean antecedent.

Learned counsel for second case submits that from the F.I.R. itself it is very much clear that the petitioner Shaukat Ali has not injured anybody and only allegation of firing is upon him. He submits that he is in custody since 21.03.2022, having 4 criminal cases pending against him and he is on bail in all cases. Charge sheet has already been filed in this case.

Learned counsel for third case submits that from the F.I.R. itself it is very much clear that accused Amit Rai is appears to be member of mob only. There was no arms in his hand and had played no role there, as per the allegation made in the F.I.R.

But all the counsels submit that for the same date and place, two F.I.Rs. from both the sides filed. Case and counter

case has been filed.

Learned counsel for the petitioner submits that the antecedent of the Amit Rai is not clean. There are 2 criminal cases pending against him and in both the cases he is on bail and all the petitioners are ready to fulfill all the conditions whatsoever shall be imposed upon them by the Court.

Learned counsel for the State opposes the prayer for bail.

Learned counsel for the informant who appeared in all the 3 cases vehemently opposes for the prayer for bail and submits that the criminal antecedent of the petitioners are not clean, police has not investigated the case properly and under their influence, police has lodged another F.I.R. with a view to make the case of the informant weaker. He further submits that the said Grahak Seva Kendra used to be open at 08:30 A.M. and closed everyday at 08:00 P.M.

In the present facts and circumstances of this case and the submissions made above, particularly considering the case and counter case from both the sides, let the petitioners above named, be granted bail on furnishing bail bonds of Rs.50,000/- (Rupees Fifty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief

Judicial Magistrate-V, Buxar in connection with Rajpur P.S. Case No. 76 of 2021, subject to the conditions as laid down under Section 437(3) of Cr.P.C. with other following conditions:

A. The petitioners shall support in trial and shall appear physically before the lower court on each and every date fixed, in case of non-appearance for two consecutive dates without sufficient cause, shall be resulted into cancellation of his bail bond.

B. One of the bailors shall be close relative who shall file affidavit before the court about his relationship with the petitioners.

C. The petitioners shall file an affidavit at the time of furnishing of bail bond that he shall not involve in such criminal activity during the continuance of present bail bond, violation of this condition shall be resulted into cancellation of his present bail bond.

Speedy trial is the constitutional vision of justice. Admittedly, there are in total 5 criminal cases (including the present one) pending against the petitioner of case no. 2 which are as follows:

- i. Rajpur P.S. Case No. 113 of 2018 lodged under Sections 147, 148, 341, 323, 354, 504 of the I.P.C.

ii. Rajpur P.S. Case No. 76 of 2019 lodged under Section 30(a) of the Bihar Prohibition and Excise Act.

iii. Rajpur P.S. Case No. 184 of 2019 lodged under Sections 379, 427, 435, 34 of the I.P.C.

iv. Rajpur P.S. Case no. 47 of 2021 lodged under Section 341, 323, 504, 379, 308 of the I.P.C.

v. Rajpur P.S. Case No. 76 of 2021 lodged under Sections 147, 148, 149, 341, 323, 324, 325, 307, 379, 504, 506 of the I.P.C. (present case).

Similarly, there are in total 3 criminal cases (including the present one) pending against the petitioner of case no. 3 which are as follows:

i. Rajpur P.S. Case No. 227 of 2019 lodged under Sections 341, 323, 337, 354(A), 354(B), 379, 504/34 of the I.P.C.

ii. Rajpur P.S. Case No. 76 of 2019 lodged under Section 30(a) of Bihar Excise Act.

iii. Rajpur P.S. Case No. 76 of 2021 lodged under Sections 147, 148, 149, 342, 323, 324, 325, 307, 379, 504, 506 of the I.P.C. read with Section 27 of Arms Act (present case).

All cases belongs to same Territorial Division that is to say District and Session Judge, Buxar.

Let District and Session Judge, Buxar is directed to do the needful so that all cases pending before the respective petitioners must run before the respective Magistrate with one date (if magisterial trial or session triable prior to commitment) and the session triable cases after commitment shall run before one Session Court with same date.

Let the copy of this order is communicated to the District and Session Judge, Buxar for perusal and necessary compliance.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J)

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