

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40785 of 2021

Arising Out of PS. Case No.-255 Year-2020 Thana- MAGADH MEDICAL COLLEGE
District- Gaya

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1. BIRENDRA KUMAR YADAV @ BIRU @ BIRENDRA, aged about 22 years (Male), Son of Dilip Yadav, Resident of Village- Gulariya Chak, P.S.- Magadh Medical, District- Gaya.
 2. KARAN KUMAR @ DANVIR KARAN KUMAR, aged about 21 years (Male), S/o Jugeshwar Yadav @ Yugeshwar Yadav, Resident of Village- Gulariya Chak, P.S.- Magadh Medical, District- Gaya.
 3. SINODH KUMAR, aged about 28 years (Male), S/o Raghu Yadav, Resident of Village- Gulariya Chak, P.S.- Magadh Medical, District- Gaya.

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioners	:	Mr. Ajay Kumar Sinha, Advocate
For the Opposite Party	:	Mr. Bal Mukund Prasad Sinha, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 01-04-2022 Vide order dated 07.12.2021, anticipatory bail application filed on behalf of petitioner no. 1, namely, Birendra Kumar Yadav @ Biru @ Birendra, has already been dismissed as withdrawn.

Heard learned counsel for the petitioner nos. 2 and 3 and learned counsel for the State through Virtual mode.

Learned counsel for the petitioner nos. 2 and 3 is directed to remove the defects, as pointed out by the office, within a period of four weeks.

Learned counsel for the petitioner nos. 2 and 3 seeks permission to withdraw the present anticipatory bail application filed on behalf petitioner no. 3, namely, Sinodh Kumar, as the



petitioner no. 3 has been taken into judicial custody in connection with Magadh Medical P.S. Case No. 255 of 2020, pending in the court of learned Additional Chief Judicial Magistrate-IV, Gaya, is dismissed as withdrawn.

Permission is accorded.

Accordingly, the present anticipatory bail application filed on behalf of petitioner no. 3, is dismissed as withdrawn.

Now, the petitioner no. 2 is apprehending his arrest in connection with Magadh Medical P.S. Case No. 255 of 2020 for the offence registered under Sections 147, 148, 149, 341, 342, 323, 504, 506, 307 of the I.P.C. and Section 27 of the Arms Act.

The prosecution story, in brief, is that the petitioner no. 2 alongwith other co-accused armed with weapons assaulted and made firing upon the informant and his family members.

It has been submitted by learned counsel for the petitioner no. 2 that he has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against him. The case diary alongwith injury report was called for to ascertain the allegation of assault as alleged in the F.I.R. The case diary has been received with a report submitted by A.C.J.M.-IV, Gaya, stating that the injury report has not been submitted by the Investigating Officer. In absence of the injury



report of the victim only the ocular evidence adduced in the F.I.R. cannot be relied upon and same makes the entire prosecution case doubtful.

On behalf of the State, it is submitted that the petitioner no. 2 is named in the F.I.R.

Considering the aforesaid facts and circumstances of the case, let the petitioner no. 2 above named, (except petitioner no. 1, namely, Birendra Kumar Yadav @ Biru @ Birendra and petitioner no. 3, namely, Sinodh Kumar) in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-IV, Gaya, in connection with Magadh Medical P.S. Case No. 255 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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