

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45685 of 2021

Arising Out of PS. Case No.-67 Year-2020 Thana- JAMALPUR District- Munger

1. SANTOSH JHA, Son of Sri Ramawatar Jha, Resident of Village- Faridpur, P.S.- Jamalpur, District- Munger.
2. RAJESH JHA, Son of Sri Ramawatar Jha, Resident of Village- Faridpur, P.S.- Jamalpur, District- Munger.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Rama Kant Sharma, Sr. Advocate
Mr. Lakshmi Kant Sharma, Advocate
For the Opposite Party/s : Mr. Akhileshwar Dayal, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 28-02-2022 Learned counsel for the petitioners undertakes to remove all the defects as pointed out by office within two weeks after start of normal functioning of the Court.

Heard Mr. Rama Kant Sharma, learned Senior Counsel assisted by Lakshmi Kant Sharma, learned Advocate for the petitioners, Mr. Manohar Prasad Singh, learned counsel for the informant and Mr. Akhileshwar Dayal, learned A.P.P. for the State.

Petitioners in the present case are seeking regular bail in connection with S.T. No. 119 of 2021 arising out of Jamalpur P.S. Case No. 67 of 2020 registered for the offences punishable under Sections 302, 120(B)/34 of the Indian Penal Code and



Section 27 of the Arms Act.

Petitioner no. 1 has got three criminal antecedents whereas petitioner no. 2 has got two criminal antecedents.

Learned Senior Counsel submits that as per the First Information Report, these two petitioners and the co-accused Gulab Jha and Rambali Mandal were assaulting the son of the informant together with 4-5 unknown persons. It is alleged that after assaulting the son of the informant and on protest raised by the informant the co-accused Rambali Mandal @ Munna Mandal shot dead the son of the informant and after threatening the informant, they fled away. The informant further disclosed that about two years back also firing was made upon his son in which he could somehow saved and a case in this regard is going on in the court. The accused persons are said to be dreaded criminals and nobody in the society comes out openly against them.

Learned Senior Counsel submits that it is a case of false implication. Though the petitioner no. 1 is said to have indulged in causing firing upon the son of the informant in the previous case being Jamalpur P.S. Case No. 225 of 2017 registered under Section 307 of the Indian Penal Code but so far as the petitioner no. 2 is concerned, he was not an accused in the



said case.

Learned Senior Counsel further submits that the specific allegation is against the co-accused Rambali Mandal @ Munna Mandal, therefore, the petitioners deserve privilege of bail.

On the other hand, Mr. Manohar Prasad Singh, learned counsel for the informant submits that both the petitioners are full brothers, the son of the informant was earlier assaulted but he was somehow saved, the case is in course of trial and in order to threaten the informant's side and the witnesses the present occurrence has been caused in which the son of the informant has been killed.

It is submitted that the post-mortem report shows as many as six injuries, some of them are caused by sharp cut weapon and one firearm injury was specifically attributed to the co-accused.

It is then submitted that if these petitioners are released on bail, there is every possibility that some more persons from the informant's side may be killed and the trial will never be concluded.

This Court has been informed at this stage that in fact the co-accused Rana Yadav who was not named in the F.I.R. has



been granted bail by this Court but immediately after his release on bail, the said Rana Yadav has indulged in killing of the witness in Kasim Bazar P.S. Case No. 317 of 2021 and Case No. 326 of 2021, he is absconding in those cases and in the present case also after his release he is absconding.

Having regard to the entire allegations and the circumstances showing that there are specific allegations against these petitioners that they had also been assaulting the son of the informant, the postmortem report is showing multiple sharp cut injuries apart from the fire-arm injury, earlier attempt of murder was taken against the son of the informant but somehow he was saved and in connection with the said case, the trial is going on. The deceased was informant in the said case, there is a submission that the petitioners attempted to derail the course of trial, considering the seriousness of the allegations and that they have indulged in killing of the witness, this Court is not inclined to release the petitioners on bail. Their prayer for bail is, thus, refused.

Having noticed the information furnished to this Court by learned counsel for the informant that the co-accused Rana Yadav is absconding in this case and he has further indulged in killing of witnesses in two cases which have been



given to this Court by Mr. Manohar Prasad Singh, learned counsel for the informant, this Court deems it just and proper to institute a suo motu case under Section 439(2) of the Cr.P.C. for cancellation of bail of co-accused Rana Yadav.

Let suo motu case for cancellation of bail be registered by the Registry. Mr. Manohar Prasad Singh learned counsel shall assist this Court on the next date. Let his name appear in the cause list.

Notice be issued to Rana Yadav, son of Rajendra Yadav, resident of village- Sandalpur, P.S. Kasim Bazar, District- Munger calling him to show cause as to why the bail granted to him vide order 08.09.2021 in Cr. Misc. No. 14457 of 2021 be not cancelled.

The Senior Superintendent of Police/Superintendent of Police, Munger is directed to ensure that if Rana Yadav is absconding in this case in which this Court has granted bail and there is any warrant of arrest against him issued by the learned court below, the same be immediately executed and an information showing compliance be made available to this Court as early as possible preferably within two weeks.

A report be called for from the learned court below in the light of the information furnished to this Court by learned



counsel for the informant.

List the matter relating to cancellation of bail of Rana Yadav immediately after service of notice or on 22nd of March, 2022 whichever is earlier.

Let a copy of this order be sent to the learned court below as well as to the Senior Superintendent of Police/Superintendent of Police, Munger through fax.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

