

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47937 of 2021

Arising Out of PS. Case No.-489 Year-2020 Thana- BIDUPUR District- Vaishali

-
1. Nitesh Kumar @ Santu, S/O Sheshnath Singh, R/O Village- Pakauli, P.S.- Bidupur, District- Vaishali.
 2. Sunil Kumar, S/O Rabindra Singh, R/O Village- Pakauli, P.S.- Bidupur, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vasant Vikas, Advocate

For the Opposite Party/s : Mr. Anand Mohan Prasad Mehta, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-06-2022 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Vasant Vikas, learned counsel appearing on behalf of the petitioners and the learned APP for the State.

The petitioners are apprehending their arrest in connection with Bidupur P.S. Case No. 489 of 2020 for the offences punishable under Sections 341, 323, 324, 307, 354, 379, 385 and 387/34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, it is alleged that on 14.11.2020 all the accused persons including the petitioners along with 4-5 unknown persons came with sharp cutting



weapon and pistol and asked about her husband. It is also alleged that on protest being made, all the accused persons thrashed the informant on ground and when the husband of the informant came to rescue her, co-accused Sheshnath Singh ordered to kill him, thereupon the accused Vileshwar Kumar @ Appu Amit Kumar fired at her husband, due to which he sustained fire-arm injury in his stomach. It is also alleged that Nitesh Kumar (petitioner no.1) also fired at her husband, but the same did not hit him.

At the outset, learned counsel for the petitioners submits at the bar, on instruction of his client, that as per his information till date the process under Sections 82/83 of the Cr.P.C. have not been issued.

It is submitted by the learned counsel appearing on behalf of the petitioners that prior to the institution of the present case, the brother of petitioner no.1, namely, Jitendra Narayan Singh, had instituted Bidupur P.S. case no. 172 of 2018 against the husband of the informant and others and the present case has been instituted only in order to save their skin and to pressurize them. It is further submitted that though there is allegation of firing, but the same did not hit to anyone, inasmuch as, so far the petitioner no.2 is concerned he was



allegedly a member of the mob. It is also submitted that both the petitioners have no criminal antecedent and the occurrence has taken place on account of free fight.

On the other hand, learned APP for the State opposes the bail application and submits that so far as petitioner no.1 is concerned, there is specific allegation of firing against him.

Having considered the submissions made on behalf of the parties and taking into consideration the specific allegation against petitioner no.1 (Nitesh Kumar @ Santu) that he fired upon the husband of the informant, though the same did not hit him, this Court is not persuaded to enlarge the petitioner no.1 on anticipatory bail. Accordingly, his prayer for grant of anticipatory bail is rejected.

So far as petitioner no.2 (Sunil Kumar) is concerned, there is no allegation of any overt act against him, let the petitioner no.2, be released on bail, in the event of his arrest or surrender before the court below within eight weeks from today, on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Vaishali at Hajipur in connection with Bidupur P.S. Case No. 489 of 2020 subject to the conditions as laid down under Section 438(2) of the Code of Criminal



Procedure with the following conditions:

(i) One of the bailors should be the close relatives of the petitioner.

(ii) The petitioner will cooperate in the investigation as well as in conclusion of the trial.

(iii) He will not try to tamper with the evidence or intimidate the witnesses in course of investigation or during the course of trial.

(Harish Kumar, J)

uday/-

U		T	
---	--	---	--

