

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39369 of 2022

Arising Out of PS. Case No.-400 Year-2021 Thana- MOTIPUR District- Muzaffarpur

1. Bhola Sah, S/o Late Dasai Sah
2. Nandu Sah @ Nand Kishore Sah, S/o Vishun Dayal Sah @ Bishnu Dayal Sah
Both are R/o village- Brahmpura, P.S.- Motipur, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Pandey, Advocate

For the Opposite Party/s : Mr. Ajay Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 24-08-2022 This petition has been taken up for out of turn hearing on mentioning slip being moved on behalf of the petitioners that the father of the petitioner no.2 has died on 21.08.2022.

Heard learned counsel for the petitioners and learned APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioners seek bail in connection with Motipur P.S. Case No.400 of 2021, registered for the alleged offence under Sections 341, 323, 504, 506, 353,



427 and 120 (B) of the Indian Penal Code.

As per the prosecution case, the petitioners and other co-accused persons making an unlawful assembly attacked the police party and damaged the government vehicles. They also tried to snatch the weapons of the police party.

The learned counsel for the petitioners submits that earlier the petitioners were granted anticipatory bail in this case, but they were arrested a few days prior to grant of anticipatory bail but due to communication gap, the message was not conveyed to the learned counsel appearing on behalf of the petitioners. So the instant petition for consideration of bail has been filed subsequently in this Court on refusal of grant of regular bail to the petitioners by the learned court below. The learned counsel further submits that there is general and omnibus allegation against the petitioners. No specific overt act has been attributed to the petitioners. A scuffle took place between two private parties and the petitioners went to pacify them and they were never involved in attacking on police party. There is specific allegation against the co-accused Alok Kumar Upadhyay and not against the petitioners. The charge sheet has been submitted in this case and the petitioners are in custody since 30.04.2022 and are having clean antecedent.



Learned APP opposes the prayer for bail made on behalf of the petitioners submitting that the petitioners have attacked the police party and have been negligent from very beginning and did not inform the Court about their arrest before grant of anticipatory bail and have no respect for the courts or law enforcing authorities.

Having regard to the facts and circumstances and submissions made hereinabove and considering the nature of allegation, which is general and omnibus and further considering the submission of charge sheet and the period of custody of the petitioners, let the petitioners above named be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-II, West Muzaffarpur, in connection with Motipur P.S. Case No. 400 of 2021, subject to the conditions mentioned in Section 437 (3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be the close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the court



below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioners will be liable to be cancelled by the court concerned.

V.K.Pandey/-

(Arun Kumar Jha, J)

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