

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42849 of 2022

Arising Out of PS. Case No.-371 Year-2020 Thana- SAHARSA SADAR District- Saharsa

1. NIRAJ KUMAR @ NIRAJ YADAV Son of Satto Yadav @ Satya Naraya Yadav Resident of Village - Karua, P.S.- Simari Bakhatiyarpur, District - Saharsa.
2. Rahul Sharma @ Rahul Kumar Sharma Son of Vidyanand Sharma Resident of Village - Mohaniya, P.S.- Simari Bakhatiyarpur, District - Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Mishra

For the Opposite Party/s : Mr.Vinod Shanker Modi

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 06-09-2022 Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

Heard learned counsel for the petitioners and learned A.P.P. for the State.

The petitioners seek bail in connection with Saharsa P.S. Case No. 371/2020 registered for the offences punishable under Sections 414, 399, 402, 120(B) of the Indian Penal Code and Sections 25(1-b)a, 26 and 35 of the Arms Act.

As per prosecution case, there is alleged recovery of one country made pistol and nine live cartridges from the possession of petitioner no.1 and one country made pistol alongwith five lives cartridges from the possession of petitioner no.2.



Learned counsel for the petitioners submits that petitioners are innocent and have falsely been implicated in this case due to dirty village politics. Nothing has been recovered from the conscious possession of the petitioners. The petitioners are languishing in custody since 02.05.2020. The petitioner no.1 bears criminal antecedent of 11 cases and petitioner no.2 bears criminal antecedent of 13 cases. Learned counsel for the petitioners further submits that seizure list has not been prepared as per law. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioners.

Considering the facts and circumstances of the case, period of custody is more than two years, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence and also taking into consideration the material available on record, let the petitioners above named be released on bail **after framing of charge** on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-II, Saharsa in connection with Saharsa P.S. Case No. 371/2020, subject to following conditions:-



(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iv) Petitioners shall furnish mobile number at the time of furnishing bail bond and the said mobile number shall continue in operating condition till disposal of the case and they shall get their presence marked before the officer-in-charge of the concerned police station on the first Tuesday of every month.

(v) Petitioners shall not live the territorial jurisdiction of the concerned trial court without appropriate permission of the court concerned.

(Alok Kumar Pandey, J)

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