

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.453 of 2021

Arising Out of PS. Case No.-602 Year-2019 Thana- SHERGHATI District- Gaya

1. MANOJ KUMAR PASWAM @ KALIA Son of Sri Jamuna Paswan Resident of Village - Pindra Kala, Police Station - Hunterganj, District - Chatra (Jharkhand)
2. Jamuna Paswan Son of Sri Bandhu Paswan Resident of Village - Pindra Kala, Police Station - Hunterganj, District - Chatra (Jharkhand)
3. Jaidun Paswan Son of Sri Bandhu Paswan Resident of Village - Pindra Kala, Police Station - Hunterganj, District - Chatra (Jharkhand)
4. Pintu Paswan Son of Sri Jaidun Paswan Resident of Village - Pindra Kala, Police Station - Hunterganj, District - Chatra (Jharkhand)
5. Sundar Paswan Son of Sri Murari Paswan Resident of Village - Pindra Kala, Police Station - Hunterganj, District - Chatra (Jharkhand)

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Saket Gupta

For the Opposite Party/s : Mr. Aditya Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 20-01-2022 Due to the third wave of COVID-19 Pandemic, the matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading 'For Orders' under the orders of Hon'ble the Chief Justice.

Heard learned counsel for the petitioners and learned APP for the State through virtual mode.

Learned counsel for the petitioners is directed to remove the defects, as pointed out by the Office, within a period of four weeks after restoration of normalcy.

The petitioners are apprehending their arrest in a case



registered under Sections 307, 435 read with 34 of the Indian Penal Code and 27 of the Arms Act.

The prosecution allegation, in short, is that the accused persons, variously armed fired upon informant due to which he sustained injuries.

It has been submitted on behalf of the petitioners that the petitioner nos. 2 to 5 have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioners. The petitioners have falsely been implicated in the present case. As per F.I.R., general and omnibus allegation has been made against the petitioners for firing upon the victim. Subsequently, in course of investigation, it has come in paragraphs 5 and 6 of the Case Diary that the co-accused namely Avinash Kumar @ Bittu Sharma is alleged to have fired upon the victim. There is a contradiction on the point of assault. The date of occurrence is said to be 08.09.2019 for which ferdbeyan was recorded on 14.11.2019. The delay in lodging the F.I.R. has not been explained by the prosecution.

On behalf of the State, it is submitted that the petitioners are named in the F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of covid cases due to outbreak of third wave of Covid-19 pandemic. Further this Court can also not lose sight of the fact that the condition of jails



is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the aforesaid facts and circumstances, the petitioners, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on their personal bonds to the satisfaction of learned A.C.J.M. Gaya in connection with Sherghati P.S. Case No. 602 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioners shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) each with two sureties of the like amount each within a period of eight weeks to the satisfaction of the Court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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