

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60891 of 2021**

Arising Out of PS. Case No.-6 Year-2017 Thana- ADHAOURA District- Kaimur (Bhabua)

Mithilesh Rai @ Mithilesh Rajbhar Son Of Budhan Rai R/O Village- Tendui,
P.S.- Pipara, District- Palamu (JHARKHAND)

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjay Kumar Patel, Advocate
For the Opposite Party/s : Mr. Bharat Bhushan, APP

**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER**

3 16-08-2022 Heard learned counsel for the petitioner and learned
counsel for the State.

Let the defect(s), if any, as pointed out by the office
be removed within four weeks.

The petitioner is in judicial custody in connection
with Adhaura P.S. Case No. 06 of 2017 for the offences under
Sections 147, 148, 149, 323, 342, 435 and 379 of the Indian
Penal Code, Section 27 of the Arms Act, Section 10/13 of the
UPA Act and Section 17 of the CLA Act.

In this case, case diary was called for on 20.04.2022
which has since been received.

As per the allegation in the FIR, the informant has
alleged that he owns a JCB and a Tractor while one of his co-
villager owned a Tractor which were used by the Forest



Department. It is further alleged that on 13.02.2017, 8-9 armed militant came and torched the vehicles after beating the driver present there. It is further alleged that the accuseds were raising slogans after torching the vehicles.

Learned counsel for the petitioner submits that he has not been named in the FIR. It is on the confessional statement of co-accused Ajay Rajbhar @ Surendra Rai @ Murendra Singh that his name has cropped up and accordingly he has come into judicial custody since 09.02.2021 (as stated in paragraph-8 of the bail application). He further submits that so far as the said co-accused Ajay Rajbhar @ Surendra Rai @ Murendra Singh is concerned, he has been granted the privilege of bail by co-ordinate Bench of this Court vide order dated 01.12.2021 passed in Cr. Misc. No. 20697 of 2021 and it is important to quote few paragraphs of the said order.

“As penal provisions of the Unlawful Assembly Activities (Prevention) Act, 1967 are invoked by the prosecution, one will have to keep in mind provisions of sub-section (5) of Section 43D thereof. In such offences, the bail cannot be granted unless and until there are reasonable ground for believing that the accusation against the accused is prima facie not true.

First informant report of the



incident in question is lodged by Dhananjay Singh. He alleged that some terrorists have set his vehicle as well as vehicles of another persons which were engaged by the Forest Department on fire. The first informant named one of the terrorist as Anil Kumar Singh @ Sandesh @ Rakesh Mishra. Subsequently the applicant along with co-accused came to be arrested in the subject matter.

As stated by the learned Prosecutor this Court is also unable to find out any evidence which makes out a prima facie case against the applicant for that the reasonable ground are there to assume that the case against the applicant is true.

The co-accused are already released on bail. Therefore the order :

The application is allowed. The applicants/accused in Crime No. 6 of 2017 registered with Police Station Adhoura for offences punishable under Sections 147, 148, 149, 323, 342, 425 and 379 of the Indian Penal Code, Section 27 of the Arms Act, 1959, Section 10 and 13 of the Unlawful Assembly Activities (Prevention) Act, 1967 as well as Section 17 of the Criminal Law Amendment Act be released on bail on furnishing P.R. bond of Rs. 30,000/- (rupees thirty thousand) with one or two sureties of



the like amount to the satisfaction of the trial Court with the following conditions.

(i) The applicant should not extend any threat, promise of inducement to the person(s) acquainted with the facts of the accusation against him so as to dissuade him/them from disclosing such facts to the Court or to any police officer.

(ii) The applicant should cooperate the trial Court in expeditious disposal of the trial against him.

(iii) The applicant to remove all office objections forthwith and the Registry to issue bail-writ as per this order only after removal of office objections by the appellant/accused.

(iv) The applicant should not repeat commission of any offence in future and if he does so the State is at liberty to file application for cancellation of bail granted to the applicant in this case for breach of this condition.

(v) The applicant should attend the learned trial Court on each and every date and his two consecutive absence shall intend the trial Court to forfeit his bail bond”.

Let the same be kept on record.

Taking into account the aforesaid facts and the



petitioner is not named in the FIR and there is omnibus allegation against the petitioner, his name has cropped up in the confessional statement of co-accused Ajay Rajbhar @ Surendra Rai @ Murendra Singh, who has since been granted the privilege of bail, this Court is inclined to grant him the privilege of bail with certain conditions.

Let the petitioner be released on bail on furnishing bail bond of Rs. 30,000/- (Thirty Thousand) with two sureties of like amount each to the satisfaction of learned Special Judge, Kaimur at Bhabua in connection with Adhaura P.S. Case No. 06 of 2021, subject to the following conditions.

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show his/her *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reasons will entail his cancellation of bail by the Trial Court itself;

(iii) he shall appear before the concerned police station every fortnight till the conclusion of the trial to mark his presence;

(iv) he shall in no way try to induce or promise or



threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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