

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66032 of 2021

Arising Out of PS. Case No.-70 Year-2021 Thana- NIRMALI District- Supaul

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1. Binod Mukhiya, Son Of Rajendra Mukhiya, Resident Of Village - Bela Singar Moti, Tola- Camp Tola, P.S- Nirmali , Dist- Supaul
 2. Rajendra Mukhiya, Son Of Late Budiya Mukhiya, Resident Of Village - Bela Singar Moti, Tola- Camp Tola, P.S- Nirmali, Dist- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms.Aprajita, Adv.

For the Opposite Party/s : Mr.Ram Anurag Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 12-05-2022 Learned counsel for the petitioners undertakes to remove all the defects as pointed out by office within two weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioners and Mr. Ram Anurag Singh, learned A.P.P. for the State.

The two petitioners in the present case are the son and father respectively. They are seeking regular bail in connection with Nirmali P.S. Case No.70 of 2021 registered for the offences punishable under Sections 341, 342, 323, 324, 326, 307, 379, 504 and 506/34 of the Indian Penal Code and Section 27 of the Arms Act. The petitioners are in custody since 16.05.2021. Both the petitioners have got one criminal antecedent which is a case lodged against them by brother of the informant being Nirmali



P.S. Case No.64/2021.

As per the prosecution story, the named accused persons including the petitioners had surrounded the brother of the informant Ashok Mukhiya. It is alleged that Rajendra Mukhiya (petitioner no.2) instructed the named accused to kill Ashok Mukhiya whereon Khattar Mukhiya gave a farsa blow on the head, Anil Mukhiya caused injury on both legs by an iron rod and due to that when he fell down, Mukesh Mukhiya snatched a golden chain worth Rs.10,000/-, Raja Mukhiya indiscriminately gave iron blows on his person which caused injuries and other accused persons assaulted him by fists and slaps. He tried to escape but then Binod Mukhiya (petitioner no.1) fired upon him which caused injury on his stomach. The victim was taken to the Primary Health Centre, Nirmali from where he was referred to District Hospital for further treatment.

Learned counsel for the petitioners submits that both the parties are fighting on a land dispute. Earlier they have registered Nirmali P.S. Case No.63/2021 and 64/2021 against each other. This time also there is a case and counter case. The counter case has been lodged by petitioner no.2 being Nirmali P.S. Case No.71/2021.

It is further submitted that both the petitioners have



remained in custody for almost one year, investigation against them is complete but the trial has yet not concluded, therefore, they deserve privilege of bail.

On the other hand, learned APP for the State has opposed the prayer for regular bail of the petitioners. It is submitted that the petitioner no.1 has fired from a pistol on the vital part of the body causing grievous injury to the brother of the informant. Earlier also, petitioner no.1 was made accused in Nirmali P.S. Case No.64/2021 in which there was an allegation that he had assaulted the injured by a *Dabiya*. It is submitted that in such circumstance for some time the petitioner no.1 does not deserve privilege of bail.

Having regard to the submissions noted hereinabove, the kind of dispute between the parties, there being a case and counter case and further that so far as petitioner no.2 is concerned, he has been made accused as an order-giver and has remained in custody for about one year, this Court directs that the petitioner no.2 Rajendra Mukhiya be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-1st, Birpur, Supaul in connection with Nirmali P.S. Case No.70 of 2021, subject to the



condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner no.2 and in case at any stage it is found that the petitioner no.2 has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner no.2. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

So far as the petitioner no.1 is concerned, since the allegation against him is that of firing on the vital part of the body causing grievous injury to the brother of the informant, for the present, this Court is not inclined to release the petitioner no.1 on bail. Prayer for bail is, thus, refused.

Let the trial be expedited. If the trial remains unconcluded within a period of six months from the date of communication of this order for no reason attributable to the petitioner no.1, he may renew his prayer for bail.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

