

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14549 of 2023

Arising Out of PS. Case No.-538 Year-2022 Thana- KATIHAR NAGAR District- Katihar

1. MD. SABID ALI S/O MD. ISLAM Resident of village- Driver Tola, Ward No.- 17, P.S.- Town, District- Katihar.
2. MILAN GHOSH S/O ROMEN GHOSH Resident of Colony No.- 2, in front of son India Club, P.S.- Town, District- Kathiar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Srinandan Prasad Singh, Sr. Adv. Mrs. Usha Kumari-1, Adv. Mr. Vijay Kumar, Adv.
For the Opposite Party/s	:	Mr. Uma Shankar Prasad Singh, APP
For the Informant	:	Mr. Bimal Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 20-06-2023 Heard learned counsel for the petitioner and learned counsel for the informant as well as learned A.P.P. for the State.

The petitioner seeks bail in connection with Katihar (T) P.S. Case No. 538 of 2022 dated 04.09.2022 registered for the offence under Sections 147, 148, 149, 307, 302, 326, 504 and 506 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, 15-20 unknown persons brutally assaulted the informant and one Pappu Singh. It is further alleged that accused persons with intention to kill Pappu Singh and informant fired upon them due to which they fell down.

Learned counsel appearing for the petitioners submits



that the petitioners are innocent and have falsely been implicated in this case. He further submits that the petitioner No.1 carries one criminal antecedent and petitioner No.2 bears the clean antecedent. He further submits that the petitioners are not named in the F.I.R., however, their names transpired in this case on the basis of confessional statement of the co-accused persons. Save and except confession of the co-accused, no cogent material has surfaced to suggest the involvement of the petitioners in the alleged occurrence and till date no T.I.P. has been conducted by the prosecution. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioners. Moreover, similarly situated co-accused, namely, Shibu Sarkar @ Kaushal Sarkar, Vishal Kumar Paswan and Rakesh Kumar Paswan have already been granted bail by a co-ordinate Bench of this Court vide order dated 12.06.2023 passed in Cr. Misc. No. 29682 of 2023. The petitioners are rotting in judicial custody since 08.09.2022.

Learned counsel for the informant as well as learned A.P.P. for the State opposed the prayer for bail of the petitioners and submits that the petitioner No.1 carries one more cases other than the present one whereas petitioner No.2 bears the clean antecedent.

Considering the facts and circumstances of the case, let the, above named, petitioners be released on bail on furnishing



bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Katihar in connection with Katihar (T) P.S. Case No. 538 of 2022 with the following conditions:-

(1) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be canceled by the Court below.

(2) 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.

And, further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. 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.

(Rajesh Kumar Verma, J)

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