

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25643 of 2022

Arising Out of PS. Case No.-385 Year-2018 Thana- ALOULI District- Khagaria

1. KAILASH YADAV Son of Late Sukhdeo Yadav Resident of Village - Alouli, P.s.- Alouli, Distt.- Khagaria.
2. Kuldeep Yadav Son of Late Sukhdeo Yadav Resident of Village - Alouli, P.s.- Alouli, Distt.- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Rashmi Jha, Advocate Mr. Vivekanand Singh, Advocate
For the Opposite Party/s	:	Mr. Yogendra Kumar Singh, APP Mr. Ram Priya Sharan Singh, Advocate
For the Informant	:	Mr. Shekhar Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 16-01-2023 Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel for the informant.

The petitioners have preferred this application for grant of regular bail in a case registered under sections 302, 147, 148, 149, 447 and 120B of the Indian Penal Code.

As per the prosecution case, the informant states that while she along with her husband and other members of her family were sitting and talking, the 15 named accused persons including the petitioners herein as also Varun Yadav came variously armed, and surrounded the informant. Ashok Yadav and Sharmanand Yadav started to abuse and stated that they



should be shot. On this Ashok Yadav, Varun Yadav and others including the petitioners started to fire indiscriminately. While the informant made an attempt to save her husband, it is stated that the petitioners herein and one Sintu Yadav prevented her from saving her husband. Her husband died.

It is submitted by learned counsel for the petitioner that the prayer for bail of the two petitioners was rejected vide orders dated 10.1.2020 (Annexure-1) and 14.7.2021 (Annexure-1/1). The petitioners are in custody since 3.11.2018 and there is no progress whatsoever in the learned trial Court. There is no chance of trial concluding in the near future. It is further submitted that the case of the petitioners stands on a similar footing to that of co-accused Ashok Yadav and Varun Yadav who have been enlarged on bail, Varun Yadav having been enlarged on bail vide order dated 21.12.2022 passed in Cr. Misc. no. 48270 of 2022. The petitioners are in custody since 3.11.2018.

The prayer for bail is opposed by learned A.P.P. for the State and learned counsel for the informant. Learned counsel for informant submits that not only the petitioners are named in the F.I.R but there is direct allegation against them of having participated in the occurrence and of having resorted to



indiscriminate firing resulting in the death of the informant's husband.

A report was called for from the learned trial Court. As per the report received contained in letter dated 15.11.2022 of the learned Additional Sessions Judge -V, Civil Court, Khagaria out of the fifteen charge-sheet witnesses only one witness has been examined by the prosecution in spite of charge having been framed on 27.10.2021 and thereafter summons, bailable warrants and non-bailable warrants having been issued for appearance of the witnesses.

Having heard learned counsel for the parties and taking into consideration the material on record it transpires that while on one hand opposing the prayer for bail in this Court, the informant is ensuring that the trial does not progress in the trial Court. In spite of issuance of summons, bailable warrants and non-bailable warrants on the witnesses and charge having been framed on 27.10.2021, only one witness has been examined. Further in view of grant of bail to the above mentioned F.I.R. co-accused Varun Yadav and the petitioners having remained in custody for over 4 years since 3.11.2018, both the petitioners are directed to be enlarged on bail in connection with Sessions Case no. 69 of 2020 (arising out of Alouli P.S. Case no. 385 of 2018)



on each of them furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-V, Khagaria.

(Partha Sarthy, J)

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