

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29682 of 2023

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

1. SHIBU SARKAR @ KAUSHAL SARKAR SON OF LATE DULAL SARKAR RESIDENT OF VILLAGE- COLONY NO.2 WARD NO.21, PS NAGAR DIST KATIHAR
2. VISHAL KUMAR PASWAN SON OF UTTAM PASWAN RESIDENT OF DRIVER TOLA, PS- NAGAR, DISTT- KATIHAR
3. RAKESH KUMAR PASWAN SON OF DILIP PASWAN RESIDENT OF DRIVER TOLA, PS- NAGAR, DISTT- KATIHAR

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Usha Kumari 1

For the Opposite Party/s : Mr.Gauri Shankar Gupta

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 12-06-2023 Heard learned counsel for the petitioners and
learned A.P.P. for the State.

The petitioners seek bail in connection with
Katihar(T) P.S. Case No. 538 of 2022 registered for the offences
punishable under Sections 147, 148, 149, 307, 302, 326, 504,
506 of Indian Penal Code.

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 for the petitioners submits that petitioners are in custody since 08.09.2022. Petitioners bear no criminal antecedent. Charge sheet has already been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that the petitioners are not named in the F.I.R. From perusal of the impugned order it appears that Para 31, 33, 40, 42, 45, 46, 47 of the case diary discloses about the involvement of these petitioners. No T.I.P. has been made till today. Nothing has been recovered from the conscious possession of the petitioners. There is an inordinate delay in lodging the F.I.R. as the occurrence took place on 02.09.2022 and the F.I.R. has been lodged on 04.09.2022 after lapse of two days and there is no explanation given for the same. Petitioners are innocent and have committed no offence as alleged in the F.I.R.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case as well as period of custody, charge-sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence, keeping in view clean antecedent of the petitioners and also taking into consideration material available



on record, let the petitioners above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) 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, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(Alok Kumar Pandey, J)

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