

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33257 of 2023

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

1. BHAIYA RAM PASWAN Son of Late Nabal Kishor Paswan VLLAGE DRIVER TOLA WARD NO.16 PS KATIHAR DIST KATIHAR
2. Deepak Kumar son of Late Prakash Ram VLLAGE DRIVER TOLA WARD NO.16 PS KATIHAR DIST KATIHAR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 46399 of 2023

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

RATAN PASWAN @ RATAN KUMAR PASWAN S/O KANHAIYA
PASWAN R/O Mohalla- Driver Tola, P.S- Nagar, Distt.- Katihar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 33257 of 2023)

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Adv
		Mrs. Usha Kumari 1, Spl.PP
For the Opposite Party/s	:	Mr. Parmanand Prasad, APP
For the Informant	:	Mr. A.K. Thakur, Adv
		Mr. Ritwik Thakur, Adv
		Mrs. Vaishnavi Singh, Adv

(In CRIMINAL MISCELLANEOUS No. 46399 of 2023)

For the Petitioner/s	:	Mr. Md. Musowir, Adv
For the Opposite Party/s	:	Mrs. Renu Kumari, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

- 3 21-08-2023 As both these bail applications have cropped up from the same police station case number, hence, with consent of parties, they are being heard together and disposed of by this common order.



2. Learned counsel for the petitioners filed a supplementary affidavit in the Court. Let the same be accepted and kept on record.

3. Heard learned Senior Counsel for the petitioners, learned counsel for the informant as well as learned APP for the State.

4. The petitioners apprehends their arrest in connection with Katihar (T) P.S. Case No.538 of 2022, registered for the offence punishable under Sections 302, 307 and other allied Sections of the Indian Penal Code.

5. Allegedly, the petitioners brutally assaulted the informant and one Pappu Singh by means of fists and slaps. It is also alleged that the accused persons including the petitioners fired upon them with an intention to kill them as a result of which Pappu Singh died.

6. It is submitted by learned Senior Counsel for the petitioners that petitioners are quite innocent and have committed no offence. They have been falsely implicated in this case. No such occurrence, in the manner as alleged, has ever taken place. The allegation levelled against the petitioners is not specific rather general and omnibus in nature. He fairly submits that the petitioners are not named in the FIR, the name of



petitioner no.1 in Cr. Misc. No.33257 of 2023 transpired in the present case on the basis of confessional statement of apprehended co-accused persons. He submits that the apprehended co-accused persons did not disclosed the name of the other petitioners. He further submits that the own brother of petitioner no.1 in Cr. Misc. No.33257 of 2023 was killed by some criminals and trial is still going on in that case. The said petitioner is one of the witness in that case, therefore he has been made accused in the present case. Petitioner Ratan Paswan in Cr. Misc. No.46399 of 2023 has one criminal antecedent whereas the rest of the petitioners have no criminal antecedent.

7. Learned APP for the State as well as learned counsel for the informant opposed the prayer for anticipatory bail. It is submitted by the learned counsel for the informant that the petitioners are involved in the present case and there is plenty of statements against the petitioners in the case diary to show their involvement. He further submits that the name of the petitioner no.1 in Cr. Misc. No.33257 of 2023 has transpired in the present case on the basis of confessional statement of co-accused persons. In this regard the ratio laid down by the Apex Court in the case of **Indresh Kumar vs. State of Uttar Pradesh in Cr. APP. No.938 of 2022** may also be taken into consideration in



which it has been observed that the statements made under Section 161 of Cr.PC. are relevant in considering the *prima facie* case against an accused in an application for grant of bail in cases of grave offence.

8. Having regard to the facts and circumstances of the case as well as considering the nature of offence and also there is ample evidence against the petitioners to show their involvement in the alleged occurrence, I am not inclined to enlarge the petitioners on bail. The prayer for grant of anticipatory bail on their behalf is hereby rejected.

9. Accordingly, these applications are dismissed.

10. However, if the petitioners surrenders before the learned Court below within a period of six weeks from today and seek for regular bail, the learned Court below shall pass the order on the same day, in accordance with law considering that the some of the arrested co-accused persons have been granted regular bail by this Hon'ble Court.

(Anjani Kumar Sharan, J)

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