

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37917 of 2023

Arising Out of PS. Case No.-104 Year-2023 Thana- RAGHOPUR District- Supaul

1. Dilkhush Kumar S/O Gajendra Yadav R/O Vill. Narha, Ps. Raghapur, Dist. Supaul
2. Prince Kumar S/O Biendra Yadav R/O Vill. Narha, Ps. Raghapur, Dist. Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjay Kumar Singh, Advocate
For the Opposite Party/s : Mr. Awadhesh Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
ORAL ORDER

- 2 04-08-2023 1. Learned counsel Mr. Ranjay Kumar Singh appearing for the applicants seeks permission to withdraw this application for applicant No. 2 as the said applicant has been arrested by the police.
2. Permission, as prayed for, is granted.
3. The application stands withdrawn with regard to applicant No. 2. This application is considered for applicant No. 1 only.
4. This application is filed under Section 438 of the Code of Criminal Procedure, 1973, wherein, the applicant has prayed that he may be enlarged on anticipatory bail in the event of his arrest in connection with Raghapur P.S. Case No. 104 of



2023 for the alleged offences punishable under Sections 341, 323, 379, 307, 386, 504, 506 and 34 of the Indian Penal Code.

5. Learned counsel Mr. Ranjay Kumar Singh for the applicant referred the allegations levelled against the applicant and the other co-accused and submitted that the general allegations are levelled against all the accused and no specific role is attributed to him. It is also submitted that F.I.R. is lodged after a period of two hours from the date of incident, wherein, the applicant has been falsely implicated. It is also submitted that there is no antecedent reported against the applicant and, therefore, he may be enlarged on anticipatory bail.

6. On the other hand, Mr. Awadhesh Kumar Singh, learned APP has opposed this application and submitted that in the F.I.R. the applicant is specifically named and specific role is also attributed to him. It is further submitted that original accused No. 1 Anil Kumar was caught from the spot and immediately police was called by dialing number 112. Learned APP, therefore, submitted that the allegations for commission of the offences punishable under Sections 307 and 386 are levelled in the F.I.R. and, therefore, this application may not be entertained.

7. I have considered the submissions canvassed by the



learned counsel appearing for the parties. I have also perused the allegations levelled against the applicant and the role played by the applicant in the incident in question. From the F.I.R. it is revealed that the specific allegations are levelled against the applicant that he alongwith with the other co-accused have brutally beaten the concerned witness with iron rod and extorted ₹ 5,000/- and silver chain was also snatched by the applicant and other accused. Thus, I am of the view that prosecution has made out a *prima facie* case against the applicant for the commission of the offence punishable under Sections 307 and 386 of the Indian Penal Code.

8. Looking to the facts and circumstances of the present case, I am not inclined to exercise discretion in favour of the applicant.

9. Accordingly, this application is dismissed.

(Vipul M. Pancholi, J)

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