

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40064 of 2023

Arising Out of PS. Case No.-101 Year-2023 Thana- BARBIGHA District- Sheikhpura

1. Himkar Kumar @himkar Sharma Son Of Devniti Sharma Resident Of Village -badarhi, Ps- Barbigha, District -sheikhpura
2. Nirbhay Kumar @ Richhu Son of Rajesh Singh @ Rajesh Prasad Singh @ Rajendra Prasad Singh Resident of Village -badarhi, Ps- Barbigha, District -sheikhpura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 14-07-2023 Heard the parties.

The petitioners are in custody since 26.02.2023 in connection with Barbigha P.S. Case No. 101 of 2023 for the offence punishable under Sections 147, 148, 149, 341, 323, 364, 307, 379, 504, 506 of the I.P.C. and u/s 27 of Arms Act lodged on 25.02.2023 by the informant, Nishikant Kumar.

The prosecution story, in brief, is that one Nishikant Kumar, gave a written report before the Officer in-charge of Barbigha Police Station alleging *inter alia* that he runs a News Portal in the name of Maghi News. It has been alleged that on 25th of February 2023 at about 5:00 P.M., he had gone to the office of Barbigha Nagar Parishad and while he was coming out,



at the instance of Umesh Kumar, several persons reached there and began to assault him. The further allegation is that Santosh Kumar @ Shanku with an intention to kill brought the Informant to a four wheeler vehicle and in the said vehicle, Nirbhay Kumar was sitting with a rifle in his hand and he snatched the locket from his neck as well as also snatched Rs. 2,000/- from his pocket.

It has been then alleged that in the said vehicle, Kunal Kishore and Rohit Kumar were also there who brought him to Bhavani Brick Industry. The allegation is that the accused persons were also having pistol. Thereafter Gopal Singh, Mukesh Kumar @ Chunnu and other persons and some unknown assembled there and began to assault.

Gopal Singh and Nirbhay Kumar was taking him to put him in the chimney Kiln. However, by seeing the activeness of the police officials, they fled away. It has lastly been alleged that on 16th of January 2023 also at about 8:00 p.m. all the persons had came and threatened him for which written information with regard to the said incident was given to the Officer in-charge of Barbigaha police Station. It has lastly been alleged that subsequently the Police had brought him to the police station by the Police vehicle from Gangti More. In the



aforesaid background, a request has been made to provide security to him. Accordingly, the F.I.R.

It has been contended by the learned counsel for the petitioners that at the behest of the Chairman, Nagar Parishad Barbigha, the innocent persons are regularly being implicated in the police cases and this case is one of such. It is his further submission that although there is grave allegations of kidnapping, trying to kill and dragging him to a four wheeler as also assault, it is not the prosecution story attributing any particular role of assault to the petitioners herein. He, however, concedes that those closer to Chairman, Nagar Parishad Barbigha in number of paragraphs have tried to parrot the prosecution story.

Learned APP opposes the prayer stating that though the allegation is omnibus in nature, the allegation of assault is amongst other the petitioner No. 2.

Taking into account the aforesaid facts so far as the petitioner no. 1 Himkar Kumar @ Himkar Sharma is concerned, this Court is not inclined to grant petitioner no. 1 to extend the relief.

So far as the petitioner no. 2 Nirbhay Kumar @ Richhu is concerned, this court directs that he being released on



bail after framing of the charges this Court is inclined to extend him the privilege of bail with conditions.

Let the petitioner no.2 namely, Nirbhay Kumar @ Richhu be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Sheikhpura, in connection with Barbigha P.S. Case No. 101 of 2023 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his bona fide;

(ii) the petitioner no. 2 shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner no. 2 shall appear before the concerned police station every fortnight for next six months to mark his attendance;

(iv) the petitioner no. 2 shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;



(v) the petitioner no. 2 shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

Ravi/jyoti/-

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