

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40799 of 2023

Arising Out of PS. Case No.-419 Year-2022 Thana- RIVILGANJ District- Saran

1. Kumar Avinash Singh Kaushik @ Abhinash Singh @ Shailesh Singh Son Of Late Ramnath Singh Resident Of Village- Devariya P.S -RIVILGANJ, Distt- Saran, Presently Residing At C/O Aman Singh , Mohalla, Krishnapuri, North Of Hawai Adda, Nehru Chowk, P.S- Chapra Town, Distt- Saran Chapra
2. Kumar Amit Kaushik @ Rajesh Singh Son Of Late Ramnath Singh Resident Of Village- Devariya P.S -Rivilganj, Distt- Saran(Chapra).
3. Guddu Sah @ Guddu Kumar Sah Son Of Late Ram Prasad Sah Resident Of Village- Devariya P.S -Rivilganj, Distt- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Shashank Chandra, Advocate
For the Opposite Party/s	:	Mr.Md. Ataur Rahman, APP
For the Informant	:	Mr. Ravindra Kumar, Advocate
	:	Mr. Shrinath Manjhi, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 04-10-2023 Heard Mr.Shashank Chandra, learned counsel for the petitioners, Mr. Ravindra Kumar, learned counsel for the informant and Mr.Md. Ataur Rahman, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Rivilganj P.S. Case No. 419 of 2022, FIR dated 17.12.2022 registered for the offence punishable under Sections 302,120(B) read with Section 34 of the Indian Penal Code.

3. The prosecution case, in short, is that the informant alleges that he has land dispute with named accused for which



they had been threatening him to give up his claim from the land for which a case is going on between them. The accused persons were also threatening to kill him and they were planning to commit murder of his son. With said intention, the named accused persons hired professional killer. On 17.12.2022 around 9.30 A.M. when he alongwith his son Gorakh Mahto was sitting at his door, four unknown persons came on two motorcycles. Two of them came to his son and started indiscriminate firing on him. One shot hit on left side of his chest and another on his head. The miscreants were chased but they left one motorcycle there and all the four fled away on one. Son of the informant was taken to Sadar Hospital, Chapra where the Doctor declared him dead.

4. Learned counsel for the petitioners submits that the petitioners have falsely been implicated in the present case. Further submits that the allegation as alleged in the FIR is false and fabricated and the petitioners have not committed any offence as alleged in the FIR. Further submits that in fact the petitioners were in judicial custody for the period from 14.12.2022 to 22.12.2022 with respect to CTR Nos.3120 of 2022, 3142 of 2022 and 3141 of 2022 which was pending in the court of learned Judicial Magistrate, Railway, Sonepur at Saran



and the present date of occurrence as alleged in the FIR is 17.12.2022 and it is admitted fact that on the date of occurrence the petitioners were in judicial custody and merely on the basis of suspicion they have falsely been implicated in the present case and from a bare perusal of the FIR it appears that no role of any assault or overt-act is attributed against these petitioners in the FIR and the informant alleged in the FIR that the petitioners are conspirators of the present occurrence and no cogent material has come during investigation against these petitioners to suggest the involvement of these petitioners in the present occurrence.

5. Learned counsel for the informant and learned A.P.P. for the State, on the other hand, have vehemently opposed the prayer for anticipatory bail of these petitioners and submits that there is sufficient material has come during investigation against these petitioners to suggest the involvement of these petitioners in the present occurrence and apart from the aforesaid, the petitioner Nos.1 and 3 carry five more cases and petitioner No.2 carries two more cases other than the present one but fairly submits that it appears from Annexure-5 series and pursuant to the order dated 06.09.2023 that the petitioners were in judicial custody and report of the learned Judicial



Magistrate, Railway, Sonapur at Saran also reveals that the petitioners were in judicial custody for the period from 14.12.2022 to 22.12.2022.

6. Considering the aforesaid facts, let the petitioners, above named, in the event of their arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs.10,000 (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Saran at Chapra in connection with Rivilganj P.S. Case No. 419 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

(I) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

(II) 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.

(III) And, further condition that the court below shall



verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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