

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43393 of 2023

Arising Out of PS. Case No.-358 Year-2022 Thana- MUNGER MUFFASIL District- Munger

1. AMIT MAHTO son of Maheshwar Mahto Village- Bind Toli Banni Ps- Mahesh Khut Dist- Khagaria
2. Dipak mahto son of Biraj Mahto Village- Bind Toli Banni Ps- Mahesh Khut Dist- Khagaria
3. Mahadev Mahto @ Mahda son of Arjun Mahto Village- Bind Toli Banni Ps- Mahesh Khut Dist- Khagaria
4. Sakaldev Mahto son of Arjun Mahto Village- Bind Toli Banni Ps- Mahesh Khut Dist- Khagaria

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Viveka Nandsingh, Advocate
For the Opposite Party/s : Mr.Damodar Prasad Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 04-08-2023 Heard learned counsel for the petitioners and

learned APP for the State.

2. The petitioners in the present case are seeking pre-arrest bail in connection with Muffasil P.S. Case No.- 358 of 2022 registered for the offences punishable under Sections 364, 302, 201, 379 of the Indian Penal Code. Petitioner nos. 1 and 4 have no criminal antecedent. Petitioner no. 2 has got one criminal antecedent and petitioner no. 3 has got two criminal antecedents.

3. Learned counsel for the petitioners submits that informant initially filed complaint petition which resulted



into registration of formal FIR under Section 156(3) of the Cr.P.C. alleging that while the informant with his sons was engaged in seeding the field, the accused persons named in the FIR lashed with weapons arrived there and they started firing indiscriminately on them. The informant and his sons jumped in the river in order to save their lives but his handicapped son, Rajiv Yadav was caught and he was taken away by the accused persons on boat with the seed worth Rs. 15,000/-. The informant searched his son but no trace came out. The accused persons are saying that they have killed the son of the informant and dead body would not be traced out.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. It is submitted that the petitioners are not named in the FIR and name of these petitioners have transpired after one month nine days of the alleged occurrence, though the informant claims himself an eye-witness to the alleged occurrence. The informant has made specific allegation against 13 FIR named accused persons and no allegation has been leveled against these petitioners.



5. Learned APP for the State has opposed the prayer for anticipatory bail of the petitioners. Referring to impugned order, it is submitted that two chargesheet named accused namely Pinkesh Yadav and Maheshwar Mahto have confessed their guilt and stated that they along with the petitioners and other accused persons have committed the murder of Rajiv Yadav and threw the dead body in river Ganga.

6. Having regard to the submissions that the name of these petitioners have transpired after one month nine days of the alleged occurrence, the informant claims himself an eye-witness to the alleged occurrence, he has made specific allegation against 13 FIR named accused persons and no overt act has been alleged against these petitioners, this Court directs that in case of their arrest or surrender within a period of four weeks from today, the petitioner nos. 1, 2 and 4 above named be released on bail in connection with Muffasil P.S. Case No.- 358 of 2022 on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Munger,



subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

7. And further condition that the court below shall verify the criminal antecedent of the petitioner nos. 1, 2 and 4 and in case, at any stage, it is found that the petitioner nos. 1, 2 and 4 have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of petitioner nos. 1, 2 and 4. 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.

8. So far as petitioner no. 3 is concerned, in view of the observations of the learned Session Judge with reference to the statements of two chargesheet named accused namely Pinkesh Yadav and Maheshwar Mahto, this Court is not inclined to grant privilege of anticipatory bail to the petitioner no. 3.

9. The prayer for anticipatory bail of petitioner no. 3 is refused.

10. In case, petitioner no. 3 surrenders in the learned court below and prays for regular bail within four weeks from today, his prayer shall be considered on its own



merit without being prejudice by the order of this Court.

11. This application is partly allowed.

(Rajeev Ranjan Prasad, J)

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