

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47204 of 2023

Arising Out of PS. Case No.-81 Year-2023 Thana- GOGRI District- Khagaria

DIBESH YADAV S/O LATE MUSHO YADAV @ JUGESHWAR YADAV
R/O Village- Shishwa, P.S- Gogri, Distt.- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 47719 of 2023

Arising Out of PS. Case No.-81 Year-2023 Thana- GOGRI District- Khagaria

Tun Tun Yadav @ Anil Yadav Son Of Mr. Godo Yadav R/O Village- Bhuriya,
Diyara, P.S- Gogari, Distt- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 47204 of 2023)

For the Petitioner/s : Mr.N.K.Agrawal, Sr.Advocate
: Mr. Amresh Kumar Sinha, Advocate
: Mr. Saroj Kumar Choudhary,Advocate
: Mr.Abhishek, Advocate

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

For the Informant : Mr. Aditya Prakash Sahay, Advocate

(In CRIMINAL MISCELLANEOUS No. 47719 of 2023)

For the Petitioner/s : Mrs.Vaishnavi Singh, Advocate

For the Opposite Party/s : Mr.Uday Pratap Singh, APP

For the Informant : Mr. Aditya Prakash Sahay, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 13-09-2023 Heard Mr. N.K.Agrawal, learned senior counsel and

Mrs. Vaishnavi Singh, learned counsel appearing for the

petitioners, Mr. Aditya Prakash Sahay, learned counsel for the

informant and the learned A.P.P. for the State in both the



applications.

2. The petitioners seek bail in connection with Gogri P.S.Case No.81 of 2023, F.I.R. dated 03.03.2023 registered for the offence punishable under Section 302 read with section 34 of the Indian Penal Code and 27 of the Arms Act.

3. As per the prosecution case, the petitioners and the co-accused persons along with 3-4 unknown miscreants holding weapons were standing beside the road. The co-accused, Amar Yadav fired from his rifle which hit the chest of the informant's husband and all the co-accused persons fled away from there.

4. Learned counsel appearing for the petitioners submits that the petitioners have falsely been implicated in the present case. 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 from a bare perusal of the FIR it appears that there is direct and specific allegation against co-accused person, namely, Amar Yadav who has fired upon the husband of the informant and there is no accusation of any assault or overt-act attributed against the petitioners, at best, the petitioners are present alongwith co-accused person, namely, Amar Yadav and the statement of the informant under Section 164 Cr.P.C. was recorded in which she has categorically stated



that co-accused person, namely, Amar Yadav has fired upon the husband of the informant and husband of the informant has received three bullet firearm injuries and postmortem report also supports that the husband of the informant has received three bullet firearm injuries and there is no accusation of any assault or overt-act attributed against the petitioners and the co-accused person, namely, Vijay Yadav has been granted bail by a Coordinate Bench of this Hon'ble Court vide order dated 08.08.2023 passed in Cr. Misc. No.48148 of 2023 and the police, after investigation, submitted chargesheet against the petitioners and petitioner-Dibesh Yadav is in custody since 04.03.2023 and petitioner-Tun Tun Yadav @ Anil Yadav is in custody since 28.03.2023 respectively.

5. Learned counsel for the informant and learned APP for the State, on the other hand, have vehemently opposed the prayer for bail of the petitioners and submits that the petitioners are also involved in the present crime in question and after the present FIR, they have threatened the victim to withdraw the case and apart from the aforesaid petitioner-Dibesh Yadav carries one more case and petitioner-Tun Tun Yadav @ Anil Yadav carries four more cases other than the present one but fairly submits that the petitioners are on bail in all the cases, as



mentioned in para-3 of the bail petition.

6. Considering the aforesaid fact, let the petitioners, above named, 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 A.C.J.M.-II, Khagaria(petitioner-Dibesh Yadav)/learned Additional Sessions Judge-VIII, Khagaria(petitioner-Tun Tun Yadav @ Anil Yadav) in connection with Gogri P.S.Case No.81 of 2023, with the 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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