

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59519 of 2023

Arising Out of PS. Case No.-511 Year-2021 Thana- AMARPUR District- Banka

-
1. RAKESH DAS S/O SHIBI DAS R/O VILLAGE- BHARKO, P.S-AMARPUR, DISTT.- BANKA.
 2. BITTI DAS S/O SHIBI DAS R/O VILLAGE- BHARKO, P.S- AMARPUR, DISTT.- BANKA.
 3. SITO DAS S/O LATE BANGI DAS R/O VILLAGE- BHARKO, P.S-AMARPUR, DISTT.- BANKA.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Pandey, Advocate
For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 05-10-2023 Heard the parties.

2. The petitioners are apprehending their arrest in connection with Amarpur P.S. Case No. 511 of 2021 for the offence under sections 341, 323, 307, 379, 504, 506, 34 of the I.P.C. lodged on 26.10.2021 by the informant, Shivan Das.

3. As per the prosecution story, informant lodged F.I.R. against accuseds-petitioners alleging therein that armed variously, they assaulted the informant and his brothers namely Mukesh Das and Rupesh Das as also committed theft of Rs. two lakh and ornaments from the house. Accordingly the FIR.



4. Learned Counsel for the petitioners submit that the chargesheet has been submitted under section 308 of the IPC and they were availing the privilege under section 41(1) of the Cr.P.C. Further, the learned Session Judge erred in observing that in view of the fact that they are availing the privilege of section 41(1) of the Cr.P.C., there is no apprehension of arrest and accordingly, the petition was rejected.

5. This according to him is in the teeth of Cr. Misc. No. 46436 of 2013 (Gauri Shankar Roy vs the State of Bihar) and Cr. Misc. No. 46437 of 2013 (Mamta Devi vs the State of Bihar) reported in 2015 (3) PLJR 618 as held by Patna High Court wherein it has held that still the anticipatory bail is maintainable.

6. Learned APP opposes the prayer.

7. Taking into account the aforesaid fact as also on the merit of the case that the chargesheet has been submitted under section 308 of the IPC and they do not have criminal antecedent, this Court is inclined to extend them the privilege of anticipatory bail with conditions.

8. Let the petitioners, above named, be released on bail in the event of arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of



Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Sub Divisional Judicial Magistrate, Banka, in connection with Amarpur P.S. Case No. 511 of 2021 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

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

(ii) the petitioners 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 their bail bond by the Trial Court itself;

(iii) the petitioners shall appear before the concerned police station every fortnight for next six months to mark their attendance;

(iv) the petitioners 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 petitioners shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of their bail bonds.



9. With the aforesaid observations, the anticipatory
bail application is allowed.

(Rajiv Roy, J)

kiran/-

U		T	
---	--	---	--

