

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69495 of 2022

Arising Out of PS. Case No.-7 Year-2017 Thana- ADAPUR District- East Champaran

1. Mukesh Kumar Yadav @ Mukesh Kumar S/O Sri Kedar Rai @ Kedar Pr. Yadav Resident of village- Jhaitokiya, P.S.- Adapur, District- East Champaran.
2. Umashankar Patel @ Umashankar Raut @ Raju Patel @ Raju S/O Jogi Raut Resident of Village- Gahmariya, P.S.- Raxual, District- East Champaran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Santosh Kumar Yadav, Advocate
For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 05-07-2023 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Petitioners seek bail who are in custody since 17.01.2017 in connection with Adapur P.S. Case No. 07 of 2017, F.I.R. dated 14.01.2017 for the offences punishable under Sections 364, 302 and 120B of the Indian Penal Code.

According to prosecution case, these petitioners along with other accused persons and some Nepali criminals have murdered the informant's brother and nephew and thrown the



bodies in Nepal.

Learned counsel for the petitioners submits that petitioners are innocent and they have falsely been implicated in the present case merely on the basis of suspicion. He further submits that the petitioners have not committed any offence as alleged in the F.I.R. He further submits that the date of occurrence was 25.12.2016 but the present F.I.R. was instituted on on 14.01.2017 i.e., after delay of 15 days without giving any explanation of the said delay. He further submits that during investigation, except the confessional statement of the petitioners, no other material has come to suggest the involvement of the petitioners in the present occurrence. He further submits that the charge sheet has already filed long back in 14.04.2017.

Vide order dated 26.04.2023 a report was called with regard to the present stage of trial. Report of the learned Trial Court dated 11.05.2023 reveals that the case is currently pending at the stage of framing of charge.

Learned counsel for the petitioners submits that in view of the report of the learned Trial Court the trial is not likely to be concluded in the near future. He further submits that similarly situated, co-accused, namely, Gajendra Sharma @



Gajendra Kumar has been granted bail by a co-ordinate Bench of this Court vide order dated 11.01.2022 passed in Cr. Misc. No. 25274 of 2021. The petitioners are in custody since 17.01.2017.

The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioners on the ground that petitioner, namely, Mukesh Kumar Yadav carries 10 criminal antecedents and petitioner, namely, Umashankar Patel carries 5 criminal antecedents other than the present one but fairly submits that the petitioner, namely, Mukesh Kumar Yadav is on bail in 8 cases out of 10 cases and petitioner, namely, Umashankar Patel is on bail in 3 cases out of 5 cases.

Considering the aforesaid facts and circumstances and the period of custody, 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 the learned Sub Divisional Judicial Magistrate, East Champaran, Motihari in connection with Adapur P.S. Case No. 07 of 2017, subject to the following conditions:-

1. 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.

2. If the petitioners tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. 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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