

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57847 of 2022

Arising Out of PS. Case No.-138 Year-2022 Thana- RAGHOPUR District- Supaul

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KANHAIYA CHOUDHARY @ MURARI CHOUDHARY Son of Late Dev
Narayan Choudhary Resident of Sakin - Latauna, Ward No.- 03, P.S.-
Triveniganj, District - Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 62275 of 2022

Arising Out of PS. Case No.-138 Year-2022 Thana- RAGHOPUR District- Supaul

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BIRENDRA KUMAR YADAV S/o Rajendra Yadav R/o Village- Latauna,
Ward no. 08, P.S.- Triveniganj, Distt- Supaul, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 57847 of 2022)

For the Petitioner/s : Mr. Satyam Anand

For the Opposite Party/s : Mr. Satyendra Narayan Singh

(In CRIMINAL MISCELLANEOUS No. 62275 of 2022)

For the Petitioner/s : Mr. Kuldeep Kumar

For the Opposite Party/s : Mr. Anil Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 27-02-2023 Heard Ld. counsel for the petitioners and Ld. APP

for the State.

The petitioners seek bail in connection with ST. No.

227 of 2022, Raghopur P.S. Case No. 138 of 2022,

registered for the offences punishable under Sections 399



and 402 of Indian Penal Code and Sections 25(1-B)a, 26 and 35 of the Arms Act.

The prosecution case as emerging from the FIR is that on 05.04.2022 at about 03:15 P.M., the SHO of the Raghapur Police Station got a secret information that some criminal on four motorcycles, carrying fire arms, had planned to commit crime in the locality. Later on, the police apprehended four persons and during search country made pistols, live cartridges, an OPPO mobile, motorcycle and some other incriminating articles were recovered.

Ld. counsel for the petitioners submit that the petitioners are innocent and have falsely been implicated in this case. They further submit that search and seizure has not been made as rules as prescribed under Cr.P.C. They also submit that nothing has been recovered from the conscious possession of the petitioners. They further submit that similarly situated co-accused persons, namely Ashok Yadav and Ashish Kumar Yadav have already been enlarged on bail by a co-ordinate Bench of this Court vide order dated 12.12.2022 passed in Cr. Misc. No. 50602 of 2022 and Cr.



Misc. No. 51152 of 2022, respectively.

They submit that the petitioners have been languishing in jail since 06.04.2022.

It has also been stated in paragraph no. 3 of the bail petition that the petitioner, namely, Kanhaiya Choudhary has earlier been made accused in nine other cases whereas petitioner, namely, Birendra Kumar Yadav has no criminal antecedents.

It is also stated in paragraph no. 2 of the bail petition that the petitioners have not moved this Court earlier either for anticipatory bail or regular one.

However, Ld. APP for the State vehemently opposes the prayer of the petitioners for bail.

Considering the aforesaid facts and circumstances, **this application is allowed**, directing the petitioners, above-named, to be enlarged on bail on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of Ld. District and Sessions, Judge, Supaul in connection with ST. No. 227 of 2022, Raghopur P.S. Case No. 138 of 2022,



on the following conditions:

(i) The petitioners will make themselves available for interrogation by a police officer/court as and when required.

(ii) The petitioners will undertake that investigation/trial will not hamper on account of their absence or non-cooperation. They must be available to the police or the court whenever their presence is required.

(iii) The petitioners shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the petitioners have criminal antecedents other than the disclosed one, Ld. court below shall cancel the bail bond of the petitioners after hearing them and getting satisfied that the petitioners have concealed their criminal antecedents despite their knowledge of the same.

(v) In case, it is brought to the notice of the court



below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bond of the petitioners.

Ld. counsel for the petitioners is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J)

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