

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64296 of 2022

Arising Out of PS. Case No.-204 Year-2018 Thana- BUXAR District- Buxar

SANJAY KUMAR MISHRA @ SANJAY MISHRA S/O Bhrgunath R/O
Village- Tripurwa , P.O- Basudhar, P.S- Sikrowl, Distt- Buxar

... .. Petitioner/s

Versus

THE STATE OF BIHAR PATNA

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 68560 of 2022

Arising Out of PS. Case No.-204 Year-2018 Thana- BUXAR District- Buxar

BRIJESH TIWARI @ VICKY TIWARI Son of Nagendra Tiwari R/v-
Dalsagar, P.S.- Buxar (Industrial), District- Buxar

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 69383 of 2022

Arising Out of PS. Case No.-204 Year-2018 Thana- BUXAR District- Buxar

RAVI KANT UPADHYA @ MUNNA UPADHYA Son of Shashi Kant
Upadhyay R/V- Majharia, P.S- Buxar (Industrial) Dist- Buxar

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 64296 of 2022)

For the Petitioner/s : Mr.Rajiv Ranjan Kr. Pandey, Adv.

For the Opposite Party/s : Mr.Nand Kishore Prasad, APP

(In CRIMINAL MISCELLANEOUS No. 68560 of 2022)

For the Petitioner/s : Mr.Sanjay Kumar, Adv.

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

(In CRIMINAL MISCELLANEOUS No. 69383 of 2022)

For the Petitioner/s : Mr.Sanjay Kumar, Adv.

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

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY



ORAL ORDER

2 03-02-2023 Heard learned counsel for the petitioners and the State through video conferencing in view of the Covid-19.

The petitioners apprehend their arrest in connection with Buxar (T) P.S. Case No. 204 of 2018 instituted under Sections 147, 148, 149, 323, 504, 354, 379, 380, 307, 386, 447, 448 of the Indian Penal Code and Section 27 of the Arms Act.

As per the prosecution story, the allegation in the FIR is that the accused persons trespassed/entered the house of the informant and threatened them to vacate the house and in the process, not only misbehaved with his wife but also took away some valuable.

Accordingly, the FIR.

The case of the defence in Cr. Misc. No. 64296 is/are :

(i) the petitioner is neither resident of 'Misrawaliya' nor he is 'Body Gaurd' of the Babli Dubey, he is resident of 'Tripurwa';

(ii) his name is 'Sanjay Mishra' and his family member resides at Buxar on rented house for education of his children and occasionally he comes home;

(iii) the fact is that the petitioner is an agriculturist residing at his native village 'Tirpurwa' for his livelihood and on the alleged date of occurrence, petitioner was at his native



village and as such, there is no chance of committed such type of occurrence on the said alleged date.

Further, the case of the defence in Cr. Misc. No.68560 and Cr. Misc. No. 69383 is/are :

(i) the petitioner is not named in F.I.R. During the course of investigation, the name of the petitioner came into light only on suspicion and only on that basis, the petitioner has dragged in the present case;

(ii) even during investigation, no specific material has come to connect the petitioner in this case. A wild allegation of his involvement has come after two year of incident. On the basis of wild allegation, the name of the petitioner has come and investigation is still going on against the petitioner.

Further, the learned counsel for the petitioners jointly submit that in each case, they will be providing Rs. 5,000/- each as a token of gesture to the informant side for the said allegation of forcibly entry into their house through Demand Draft issued by the local State Bank of India branch to be submitted before the 'NAZARAT' of concerned Court to be handed over to the informant after checking the credentials.

Learned APP on the other hand opposes the prayer for bail stating that these accused persons forcibly entered the house



of the informant and threatened him of dire consequences and also misbehaved with the ladies present there.

Considering the kind of allegation that has come against the petitioners herein as also the fact that they will be diligently appearing in the trial, this Court is inclined to extend them privilege of anticipatory bail.

Let the petitioners be released on bail, in the event of their arrest or surrender before the subordinate court 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 the like amount each in connection with Buxar (T) P.S. Case No. 204 of 2018 to the satisfaction of learned Chief Judicial Magistrate, Buxar, subject to the conditions as laid down under Section 438(2) of the Cr.P.C and with the further conditions :

(i) one of the bailor should be the family member of the petitioners who shall provide official document to show their 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 co-operate in the



investigation and make himself available to the police as and when required;

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

(v) 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;

(vi) 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.

(Rajiv Roy, J)

Ajay Singh/-

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