

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72863 of 2022

Arising Out of PS. Case No.-254 Year-2022 Thana- MALSALAMI District- Patna

1. AWADHESH KUMAR @ AWDHESH YADAV Son of Chandra Shekhar Pd. @ Chandeshwar Roy @ Jataha R/o Rikabganj P.S.- Malsalami, District- Patna
2. RAVI KUMAR Son of Late Upendra Rai R/o Rikabganj P.S.- Malsalami, District- Patna
3. NIRAJ KUMAR Son of Birendra Kumar @ Gorakh Roy R/o Rikabganj P.S.- Malsalami, District- Patna

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 74945 of 2022

Arising Out of PS. Case No.-254 Year-2022 Thana- MALSALAMI District- Patna

RAJ KUMAR @ RAJESH ROY @ MAGHI Son of late Ram Naresh Yadav
Resident of Rikabganj, P.S- Malsalami, Dist- patna

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 72863 of 2022)

For the Petitioner/s : Mr.Arvnendra Kumar Thakur, Advocate

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

(In CRIMINAL MISCELLANEOUS No. 74945 of 2022)

For the Petitioner/s : Mr.Satyendra Prasad, Advocate

For the Opposite Party/s : Mr.Akshay Lal Pandit, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 10-02-2023 Heard learned counsels for the petitioners and the

State.

Let the defect(s), if any, as pointed out by the

office, be removed within four weeks.



The petitioners are apprehending arrest in connection with Malsalami P.S. Case No. 254 of 2022 under sections 147, 148, 149, 341, 323, 307, 504, 506 and 120B of the Indian Penal Code and Section 27 of the Arms Act.

As per the prosecution story, the informant alleged that his uncle was visiting dance party on the occasion of 'Shradh karma' where some dispute arose and later 50 persons armed variously came to the house and the allegation is that Lalji Rai and Ashok Rai gave order after which Vinod Kumar @ Karu, Pramod Rai @ Panchu opened fire causing injury to the informant's side.

Further allegation against the other accused persons is/are of assaulting by means of brick, stone and rod.

Learned counsel for the petitioners submit that a bare perusal of the FIR would show that specific allegation of opening fire is against the named accused persons and there is omnibus allegation against these petitioners and they do not have criminal antecedents.

The learned APP opposes the prayer stating that they were part of the mob who assaulted the informant's side.

Taking into account the aforesaid fact that omnibus allegation is against the petitioners and they are not named



accused who opened fire, they do not have criminal antecedents and are the young boys, this Court is inclined to grant them the privilege of anticipatory bail.

Let the petitioners be released on bail, in the event of their 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 Additional Chief Judicial Magistrate-IV, Patna City, Patna, in connection with Malsalami P.S. Case No. 254 of 2022 subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also the conditions as follows:-

(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 co-operate in the investigation and make themselves available to the police as and when required;

(iii) 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;

(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)

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