

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6798 of 2024

Arising Out of PS. Case No.-248 Year-2023 Thana- KALYANPUR District- East Champaran

1. Sachin Kumar S/O Anil Prasad Kushwaha @ Anil Kumar Kushwaha, R/O Village- Bahuara Haribansh, P.S- Kalyanpur, Distt.- East Champaran.
2. Gulsan Kumar S/O Surendra Bhagat, R/O Village- Bahuara Haribansh, P.S- Kalyanpur, Distt.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate

For the Opposite Party/s : Mr. Lakshmi Kant Sharma, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 17-02-2024 Heard Mr. Abhishek Kumar, the learned counsel

for the petitioners and Mr. Lakshmi Kant Sharma, the learned

Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in

connection with Kalyanpur PS Case No. 248 of 2023, FIR dated

13.07.2023, registered for the offences punishable under

Sections 379 and 506 read with Section 34 of the Indian Penal

Code.

3. According to prosecution case, the petitioners

committed theft of various articles from the shop of the

informant, the cost of which is estimated to be Rs. 3,00,000/-

(Rupees three lakhs). It is further alleged that the nearby



shopkeeper namely, Rajkumar disclosed the name of the petitioners.

4. Learned counsel for the petitioners submits that petitioners have falsely been implicated in the present case. He further submits that upon perusal of the FIR, it appears that the date of incident as alleged is 10.07.2023, but the date of institution of FIR is 13.07.2023, after delay of three days, only to implicate these petitioners in the present case. He further submits that upon perusal of the FIR, when the informant had come to know that the petitioners are committing the theft, then why did he wait for three days for the institution of FIR in this case and there is no any other material that has come during investigation that suggests the involvement of the petitioners in the present case.

5. The learned Additional Public Prosecutor on the other hand has vehemently opposed the prayer for bail of the petitioners on the ground that petitioners are named in the FIR and there is direct allegation against these petitioners and petitioner no. 1 carries one criminal antecedent other than the present one. However, he fairly admits that petitioner no. 1 has got bail in the said case and petitioner no. 2 has clean antecedent.



6. Considering the aforesaid facts and circumstances and the fact that there is a delay of three days in the institution of the FIR without any explanation, let the petitioners, above-named, in the event of their arrest or surrender before the Court below, within a period of four weeks from the date of receipt of the order, be released on anticipatory 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 Additional Chief Judicial Magistrate-IV, Motihari, East Champaran, where the case is pending in connection with **Kalyanpur PS Case No. 248 of 2023**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:

(i). 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.

(ii). If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iii). 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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