

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7260 of 2024

Arising Out of PS. Case No.-331 Year-2023 Thana- KUDRA District- Kaimur (Bhabua)

1. Rahul Tiwari @ Rahul Kumar Son Of Mahendra Tiwari Resident Of Village- Nevras, Ps- Kudra, Dist- Kaimur
2. Amit Kumar Tiwari Son Of Jawahar Tiwari Resident Of Village- Nevras, Ps- Kudra, Dist- Kaimur
3. Santosh Tiwari @ Mantu Tiwari Son Of Late Rameshwar Tiwari Resident Of Village- Nevras, Ps- Kudra, Dist- Kaimur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashutosh Tripathy, Advocate
For the Opposite Party/s : Mr. Anant Kumar 1, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 17-02-2024 Heard Mr. Ashutosh Tripathy, learned counsel for the petitioners and Mr. Anant Kumar 1, learned A.P.P. appearing on behalf of the State.

2. After some arguments, learned counsel for the petitioners seeks permission to withdraw the present writ petition with regard to petitioner no.2.

3. Permission is accorded.

4. Accordingly, this application is dismissed as withdraw with regard to petitioner no.2, namely, Amit Kumar Tiwari.

5. Now, this application will be heard only with regard to petitioner nos.1 & 3.



6. Heard Mr. Ashutosh Tripathy, learned counsel for the rest of petitioners and Mr. Anant Kumar 1, learned A.P.P. appearing on behalf of the State.

7. The petitioners (except petitioner no.2) are apprehending their arrest in connection with Kudra P.S. Case No.331 of 2023, F.I.R. dated 25.08.2023 for the offences punishable under Sections 307 and 34 of the Indian Penal Code and Section 27 of the Arms Act.

8. According to prosecution case, on the provocation of the petitioner no.1, petitioner no.2 is said to have fired upon the informant.

9. Learned counsel for the petitioners submits that petitioners have clean antecedent and they have falsely been implicated in the present case. He further submits that the present case is a counterblast of the Kudra P.S. Case No. 262 of 2023 filed by the Amit Kumar Tiwari. He further submits that from bare perusal of the FIR it appears there is specific allegation against the Amit Kumar Tiwari (petitioner no.2). He further submits that there is no specific overt act attributed against the petitioner nos. 1 & 3. He further submits that the date of occurrence as alleged in the FIR is 23.08.2023 but the present FIR instituted on 25.08.2023 after a delay of two days



without giving any explanation of delay.

10. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail.

11. Considering the aforesaid facts and circumstances and the fact that petitioners having clean antecedent and there is no specific allegation of overt act attributed against petitioner nos.1 & 3, let the petitioner nos. 1 & 3, above named, in the event of arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate in connection with Kudra P.S. Case No. 331 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other 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 his absence on two consecutive dates without sufficient reason, his 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 bonds 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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