

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13652 of 2024

Arising Out of PS. Case No.-438 Year-2022 Thana- MALSALAMI District- Patna

Arun Kumar S/o Diwali Sahni R/o Village- Satichaura, Sabalpur, P.S.- Nadi,
Distt.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 18725 of 2024

Arising Out of PS. Case No.-438 Year-2022 Thana- MALSALAMI District- Patna

Deepak Kumar S/o Raj Kumar Mahto @ Rajkumar Mahto Resident of village
Fatehiampur, Satichaura Sabalpur PS Nadi District Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 13652 of 2024)

For the Petitioner/s : Mr. Ansul,
Mr. Nityanand Kumar, Advocates.

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

For the Informant : Ms. Karuna Kumari Singh, Advocate

(In CRIMINAL MISCELLANEOUS No. 18725 of 2024)

For the Petitioner/s : Mr. Arvind Kumar Pradhan, Advocate

For the Opposite Party/s : Mr. Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 17-05-2024 Since both these petitions for regular bail arise out of

the same PS Case i.e., Malsalami PS Case No. 438 of 2022, they

are heard together and are being disposed of by a common

order.

2. Heard learned counsel for the petitioners, learned

APP for the State and learned counsel for the informant.



3. Petitioners, who are in custody since 27.11.2022 and 22.09.2022 respectively, seek bail in connection with Malsalami PS Case No. 438 of 2022 (S.T. No. 688/2023) registered on 10.08.2022 for the offences punishable under Sections 147, 148, 149, 341 and 302 of the Indian Penal Code. Later on Sections 396, 412 and 427 IPC were added.

4. Earlier the prayer for bail of both these petitioners, namely, Arun Kumar and Deepak Kumar was rejected on 29.08.2023 *vide* Cr. Misc. Nos. 22623 and 25688 of 2023 respectively.

5. According to prosecution case, 10-12 unknown persons having armed with weapons after breaking open the glass of cash room of four wheeler show room entered into the showroom and when the brother-in-law of the informant objected, he was assaulted with knife on his abdomen and the informant was also assaulted with knife and both of them became injured and thereafter the accused persons fled away. In course of treatment, the brother-in-law of the informant died.

6. Learned counsel for the petitioners submits that the petitioners have falsely been implicated in the present case. He further submits that the petitioners are not named in the F.I.R. They have been implicated only on the basis of their



confessional statement and except their confessional statement, no other cogent material has emerged during investigation to suggest the involvement of these two petitioners in the present occurrence. Moreover, out of eight charge-sheet witnesses, six of them have been examined and they have not stated anything against the petitioners. Apart from this, similarly situated co-accused person has been granted bail by order dated 03.08.2023 *vide* Cr. Misc. No. 19319 of 2023. Other accused persons have also been granted bail by a co-ordinate Bench of this Court by order dated 30.01.2024 passed in Cr. Misc. No. 71195 of 2023 and by order dated 31.01.2024 passed in Cr. Misc. No. 71738 of 2023 respectively (Annexure-2 Series.)

7. On the other hand, learned counsel for the informant as well as learned Additional Public Prosecutor for the State vehemently opposed the prayer for bail of the petitioners and submit that these petitioners were involved in the present occurrence and apart from that the petitioner, namely, Arun Kumar carries four criminal antecedent other than the present one and Arun Kumar is on bail in all the pending matters and the petitioner, namely, Deepak Kumar carries 8 criminal antecedent other than the present one but fairly submits that the petitioner, Deepak Kumar is on bail in all the pending matters.



8. Considering the aforesaid facts and the period of custody and similarly situated accused persons have been granted bail by the different Benches of this Court, both the petitioners namely, Arun Kumar (Cr. Misc. No.13652/2024) and Deepak Kumar (Cr. Misc. No. 18725 of 2024) are directed to be released on bail, after framing of charge, 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 A.C.J.M-1st , Patna City, Patna in connection with Malsalami P.S. Case No.438/2022 subject to 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 his 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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