

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27262 of 2024

Arising Out of PS. Case No.-260 Year-2023 Thana- PUNAURA District- Sitamarhi

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1. KISLAY AYUSH S/O RAKESH KUMAR MISHRA R/O VILLAGE-COURT BAZAR WARD NO. 09, P.S. AND DISTT.- SITAMARHI.
 2. ANKUR AYUSH @ RISHU KUMAR S/O RAKESH KUMAR MISHRA R/O VILLAGE- COURT BAZAR WARD NO. 09, P.S. AND DISTT.- SITAMARHI.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Yashraj Bardhan, A.P.P.

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 4 31-08-2024 1. Heard learned counsel for the petitioners, Mr. Chandra Bhushan Prasad learned A.P.P. for the State and learned counsel appearing on behalf of the informant.
2. The petitioners seek bail in a case registered for the offences punishable under Sections 341, 323, 324, 307/34 and 302 of the Indian Penal Code.
3. Learned counsel for the petitioners submits that petitioners are persons with clean antecedent and are in custody since 24.11.2023.
4. The informant alleges that on 20.11.2023 at about 08:00 p.m. while he was at home when petitioners along with other named accused persons and four unknown accused came and took his son to Punaura temple, but then his son did not



return till 10:30 p.m. Thereafter, a search was made and during the course of search his son was found lying behind the Punaura Dham park in an unconscious state, from where he was brought to Sadar Hospital, Sitamarhi and thereafter he was referred to Patna for better treatment. It is further alleged that the informant came to know that accused Kishalay Aayush had threatened to kill his son, thus alleges based on suspicion that accused were also responsible in assaulting his son brutally. It is next alleged that son of the informant died subsequently during the course of treatment.

5. Learned counsel for the petitioners submits that from perusal of the allegation as alleged in the FIR, it would manifest that the entire allegation hinges around suspicion. It is further submitted that it absolutely does not stand to reason that if Kishalay Aayush had threatened his son that he would have killed then why his son accompanied the accused persons when they came to take him from his home. It is also submitted that petitioners will not abscond rather will cooperate in the trial. It is further submitted that Bharat Kumar @ Bittu had moved this Court seeking anticipatory bail by filing Cr. Misc. No. 12594 of 2024 and the same was allowed by an order dated 25.07.2024 after considering his case on merit. It is next submitted that case



of the petitioner is also similar to the case of Bharat Kumar @ Bittu.

6. Learned A.P.P. for the State and learned counsel appearing on behalf of the informant opposed the prayer for regular bail of the petitioners but then are not in a position to rebut the submission of the learned counsel appearing on behalf of the petitioners that informant is not an eyewitness to the occurrence and the entire allegation hinges around suspicion.

7. Learned counsel appearing on behalf of the informant submits that trial has commenced and one witness has been examined. It is thus submitted that if petitioners are granted the privilege of regular bail they may abscond.

8. Considering the submissions made by the learned counsel for the petitioners, the petitioners, above named, are directed to be released on bail on furnishing bail bonds of Rs.50,000/- (Rupees Fifty Thousand) each with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with Punaura P.S. Case No. 260 of 2023.

9. One of the bailors of the petitioners shall be their father Rakesh Kumar Mishra.

10. However, it is made clear that if the learned trial court



comes to a conclusion that the petitioners, after their release, are trying to delay the trial in any manner then in that event the learned trial court shall forthwith cancel the bail bonds of the petitioners and to take all coercive steps to ensure that petitioners are behind bar.

(Satyavrat Verma, J)

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