

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23381 of 2024

Arising Out of PS. Case No.-17 Year-2024 Thana- HATHIDAH District- Patna

- 1. Sonu Kumar S/o Manoj Kumar Sharma R/o vill - Bhawanipur, P.S. - Bhawanipur, Distt. - Purnea
- 2. Aashish Kumar Gupta S/o Binod Kumar Gupta R/o vill - Bhawanipur, P.S. - Bhawanipur, Distt. - Purnea
- 3. Prem Lal Mandal @ Prem Kumar Mandal S/o Late Bhagwan Mandal R/o vill - Ismalpur, p.s. - Bhawanipur, Distt. - Purnea
- 4. Raj Kumar S/o Awadesh Mandal R/o vill - Bhitha, P.S.- Bhawanipur, Distt. - Purnea
- 5. Prashant Kumar S/o Manoj Kumar Mandal @ Manoj Kumar R/o vill - Supali Diara, P.s. - Bhawanipur, Distt. - Purnea
- 6. Pankaj Kumar S/o Butan Mandal R/o vill - Shyam Basa Tola Durgapur, P.s. - Purnia, Distt. - Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 24122 of 2024

Arising Out of PS. Case No.-17 Year-2024 Thana- HATHIDAH District- Patna

AWADHESH MANDAL @ AWADHESH KUMAR SON OF LATE ARJUN MANDAL RESIDENT OF VILLAGE - BHITHA, P.S. - BHAWANIPUR, DISTRICT - PURNEA. (PETITIONER MOVED FIRST TIME FOR GRANT OF BAIL IN THE PRESENT CASE BEFORE THIS HON'BLE COURT)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 24849 of 2024

Arising Out of PS. Case No.-17 Year-2024 Thana- HATHIDAH District- Patna

- 1. Awdhesh Mandal @ Master Jee @ Master S/o Late Rupan Mandal Resident of Village- Bhitha, P.S. Bhawanipur, District- Purnea.
- 2. Subodh Mandal S/o Late Suresh Mandal Resident of Village- Bhitha, P.S. Bhawanipur, District- Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 23381 of 2024)

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate
Mr. Bhola Prasad, Advocate
Mr. Indrajeet Kumar, Advocate
Mr. Kumar Rajdeep, Advocate

For the State : Mr. Chandra Prasad Singh

(In CRIMINAL MISCELLANEOUS No. 24122 of 2024)

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate
Mr. Bhola Prasad, Advocate
Mr. Indrajeet Kumar, Advocate
Mr. Kumar Rajdeep, Advocate

For the State : Mr. Chandra Prasad Singh

(In CRIMINAL MISCELLANEOUS No. 24849 of 2024)

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate
Mr. Bhola Prasad, Advocate
Mr. Indrajeet Kumar, Advocate
Mr. Kumar Rajdeep, Advocate

For the State : Mr. Chandra Prasad Singh

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 05-04-2024 All three petitions arise out of the same Hathidah P.S.

Case No.17 of 2024. Hence, they are being disposed of by the

common order.

2. Heard Ld. counsel for the petitioners and Ld. APP
for the State.

3. The petitions have been filed seeking regular bail in
the aforesaid Hathidah P.S. Case No.17 of 2024, registered for
the offences punishable under Sections 25(1-B)a, 30, 35 of the
Arms Act

4. The prosecution case as emerges from the FIR is
that the informant, Amit Kumar Gaurav, Probation Block
Development Officer, Mokama gave an application to the Sub-
Divisional Magistrate, wherein it has been stated that on

11.02.2024, on search, an NP Bore Rifle, 38 bullets, a sum of rupees one lac, mobile phone and other documents have been recovered from a scorpio vehicle bearing registration number-BR-11-BB-7271, and NP BORE Rifle SBBL 315, SBBL 12 BORE Gun, 59 Bullets and mobile have been seized from a Fortuner Vehicle bearing Registration No. BR-11-BE-0001. It is alleged that the seized arms and ammunition belongs to Smt. Bima Bharti and Rani Kumari, who possess the liscence but they were not present at the place of search.

5. Ld. counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in this case. They further submit that as per the allegation, maximum punishment in the alleged offence is five years. Hence, in such situation, the Petitioners should not have been arrested because as per the direction of Hon'ble Supreme Court in **Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273** and **Satender Kumar Antil v. CBI, (2022) 10 SCC 51**, they should not have been arrested and the police should have given notice under Section 41A of the Cr. PC, and only in case of non-cooperation they should have been taken into custody. As such, the custody of the Petitioners itself is unwarranted and in violation of right to liberty as provided under Article 21 of the Constitution of

India and the statutory provisions of Cr.P.C. In fact, the police has committed Contempt the Hon'ble Supreme Court by arresting the Petitioners in complete disregard of its directions in **Arnesh Kumar and Satyendra Kumar** cases (supra). Even Ld. Magistrate should not have remanded the Petitioners in view of **Arnesh Kumar and Saytendra Kumar** cases (supra).

6. He further submit that the petitioners have been languishing in jail since 12.02.2024.

7. It has also been stated in paragraph no. 3 of the bail petitions that the petitioner No. 5 and 6 in Cr. Misc. No. 23381 of 2024 have one criminal antecedents each, in which they are on bail, the Petitioner in Cr. Misc. No. 24122 of 2024 has 46 criminal antecedents but he is on bail in all the previous cases and the Petitioner No. 1 and 2 in Cr. Misc. No. 24849 of 2024 have two and one criminal antecedents respectively, in which they are on bail.

8. It is also stated in paragraph no. 2 of the bail petitions that the petitioners have not moved this Court earlier either for anticipatory bail or regular one.

9. However, Ld. APP for the State vehemently opposes the prayer of the petitioners for bail.

10. Considering the aforesaid facts and circumstances

and the ratio of **Arnesh Kumar** and **Satender Kumar** cases (supra), **this application is allowed**, directing the petitioners, above-named, to be enlarged on bail on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of Ld. A.C.J.M-III, Barh, District-Patna in connection with Hathidah P.S. Case No.17 of 2024 on the following conditions:

(i) The petitioners will make themselves available for interrogation by a police officer/court as and when required.

(ii) The petitioners will undertake that investigation/trial will not get hampered on account of their absence or non-cooperation. They must be available to the police or the court whenever their presence is required.

(iii) The petitioners shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the petitioners have criminal antecedents other than the disclosed one, Ld. court below shall cancel the bail bonds of the petitioners after hearing them and getting satisfied that the petitioners have concealed their criminal antecedents despite

their knowledge of the same.

(v) In ca se, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bonds of the petitioners.

(Jitendra Kumar, J.)

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