

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30942 of 2024

Arising Out of PS. Case No.-36 Year-1993 Thana- BELHAR District- Banka

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1. Kailash Das son of Late Gulten Das Resident of Village- Pasiya, Police Station- Belhar, Dist.- Banka
 2. Indra Deo Das Son of Late Darogi Das Resident of Village- Pasiya, Police Station- Belhar, Dist.- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Mukherjee, Adv.

For the Opposite Party/s : Ms. Renu Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

3 10-05-2024 Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners seek bail in connection with Belhar P.S. Case No. 36 of 1993 instituted for the offences under Sections 147, 148, 149, 307, 323, 504, 353 of the Indian Penal Code and Section 27 of the Arms Act.

3. As per prosecution case, the allegation against the accused persons including the petitioners is of creating hindrance in fishing and they started firing and exploding bombs.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have committed no offence as



alleged against them and have falsely been implicated in the present case. The present case is misuse of privilege of bail granted to the petitioners and the Informant has himself admitted that there was no damage in the alleged occurrence. The petitioners have filed supplementary affidavit stating therein that that in this case, the charge-sheet was submitted on 30.05.1994 but, before submission of the charge-sheet, the petitioners had appeared before the court below and were granted bail. After granting bail, the petitioners regularly attended the court below up to 24.02.2004 and, thereafter, on 28.09.2004, the case was committed to the court of sessions, Bhagalpur. After commitment, the petitioners surrendered on 20.02.2009 and both of them along with co-accused Baijnath Das were granted bail by the learned trial court. After commitment, the charge was framed on 24.03.2009. Thereafter, the petitioners regularly attended the court up to 05.04.2012 but, as no Pairvi was made, the learned court below cancelled the bail bonds of the petitioners on 18.06.2012 and the petitioners were declared absconder on 05.08.2023. Thereafter, the petitioners surrendered on 28.02.2024 and, since then, they are in jail. The petitioners have no criminal antecedent.

5. Learned counsel for the petitioner again submits



that the co-accused namely Baijnath Das has been granted bail by this Court vide order dated 19.04.2024 passed in Cr. Misc. No. 28543 of 2024. The petitioners further undertake to abide by any conditions imposed by this Court, if released on bail.

6. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioners.

7. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case as also taking into account the period of custody of the petitioners and the petitioners having no criminal antecedent, let the petitioners, abovenamed, 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 Court below/concerned Court in connection with Belhar P.S. Case No. 36 of 1993, subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioners.

(ii) The petitioners shall cooperate 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 in the event of failure on two consecutive dates



without sufficient reasons, their bail bonds shall be liable to be cancelled by the court below.

(iii) 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.

(Rudra Prakash Mishra, J)

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