

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36892 of 2024

Arising Out of PS. Case No.-178 Year-2023 Thana- BAUNSI District- Araria

1. Dinesh Mahto Son of Raghuni Mahto Resident of Village - Farkiya, Ward No.- 10, P.S.- Baunsi, District - Araria (Bihar).
2. Joutish Mahto @ Joutish Kumar Son of Ashok Mahto Resident of Village - Farkiya, Ward No.- 10, P.S.- Baunsi, District - Araria (Bihar).
3. Ashok Mahto Son of Anuplal Mahto Resident of Village - Farkiya, Ward No.- 10, P.S.- Baunsi, District - Araria (Bihar).

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Shankar Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 20-09-2024 Heard Mr. Shankar Kumar, the learned counsel for the petitioners and Mr. Mritunjay Kumar Nirala, the learned Additional Public Prosecutor for the State.

2. Learned counsel for the petitioners outrightly submits that in view of the chargesheet submitted by the prosecution, he seeks permission to withdraw the anticipatory bail application with respect to petitioner no. 1 namely, Dinesh Mahto.

3. Permission, as prayed for, is accorded.

4. Accordingly, the anticipatory bail application with respect to petitioner no. 1, namely, Dinesh Mahto is dismissed as withdrawn with a liberty to petitioner no. 1, namely, Dinesh Mahto to move before the appropriate forum, if cognizance has been taken in the present case against him.



5. The petitioner nos. 2 and 3 are apprehending their arrest in connection with Baunsi PS Case No. 178 of 2023, FIR dated 12.11.2023, registered for the offences punishable under Sections 147, 149, 341, 323, 324, 325, 379, 307, 327, 504 and 506 of the Indian Penal Code.

6. According to the prosecution case, the petitioner nos. 2 and 3 along with other co-accused persons, variously armed, came at the land of the informant on tractor and assaulted the informant with tractor, thereafter they assaulted the informant and his family members by means of iron-rod.

7. Learned counsel for the petitioner nos. 2 and 3 submits that petitioner nos. 2 and 3 have falsely been implicated in the present case due to admitted land dispute between the parties and there is case and counter case between the parties as well. He further submits that upon perusal of the FIR, it appears that there is no specific allegation of any assault or overt act attributed against the petitioner nos. 2 and 3, rather the specific allegation of assault is attributed against the co-accused person namely, Mangal Mahto. He further submits that one title suit no. 488 of 2023 is going on between the parties and co-accused persons namely, Nirmala Devi, Lata Devi, Guddi Kumari, Priyanka Devi and Jhatakaniya Devi @ Rakhaniya Devi have been granted the privilege of anticipatory bail by this Court vide order dated 04.04.2022 passed in Cr. Misc.



No. 21254 of 2024.

8. The learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of petitioner nos. 2 and 3 on the ground that petitioner no. 2 namely, Joutish Mahto @ Joutish Kumar carries two criminal antecedents other than the present and petitioner no. 3 namely, Ashok Mahto carries three criminal antecedents other than the present, however, he fairly admits that petitioner nos. 2 and 3 are on bail in all the pending matters.

9. Considering the aforesaid facts and circumstances and mainly the facts that there is no specific allegation of any assault or overt act attributed against the petitioner nos. 2 and 3 and several co-accused persons have been granted the privilege of anticipatory bail, let the petitioner nos. 2 and 3, above-named, in the event of their arrest or surrender before the learned trial Court, within a period of four weeks from the date of receipt of the order, be released on anticipatory bail 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 Judicial Magistrate 1st Class, Araria, where the case is pending in connection with Baunsi PS Case No. 178 of 2023, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:

(i). Petitioner nos. 2 and 3 shall co-operate in the trial



and shall be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as directed by the learned trial Court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the learned trial Court.

(ii). If the petitioner nos. 2 and 3 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 learned trial Court shall verify the criminal antecedent of the petitioner nos. 2 and 3 and in case, at any stage, it is found that the petitioner nos. 2 and 3 have concealed their criminal antecedent, the learned trial Court shall take step for cancellation of bail bond of the petitioner nos. 2 and 3. 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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