

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54911 of 2024

Arising Out of PS. Case No.-17 Year-2019 Thana- BAKHTIYARPUR District- Patna

1. Rakesh Kumar @ Rakesh Rai, Male, aged about 30 years, son of Jattu Rai @ Jatai Rai,
2. Jattu Rai @ Jatai Rai, aged about 54 years, son of Daun Rai @ Dawoon Rai, Both resident of Village- Naya Tola, Raghapur, P.S.- Bakhtiyarpur, Dist.- Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Aryan Singh, Advocate
For the Opposite Party/s	:	Mr. Satyendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 31-08-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners apprehend arrest in connection with Bakhtiyarpur PS Case No.17 of 2019 dated 12.01.2019, instituted under Sections 147, 149, 323, 341, 307, 353, 224 and 225 of the Indian Penal Code.

3. The prosecution case, in brief, is that on the alleged date of occurrence the police personnel reached the house of the accused persons to arrest the accused of Bakhtiyarpur PS Case No.525 of 2017 and surrounded the house. On calling, one person jumped upon the roof of a thatched house and fled away who was recognized as Rakesh Rai by the local chaukidar.



When the police personnel tried to catch them, the family members and others villager made *hulla* of *Chor-Chor* and started brick batting upon the police due to which police personnel got some injury. They did not take any action due to law and order situation.

4. Learned counsel for the petitioners submits that they are innocent and have been falsely implicated in this case. It is further submitted that all sections areailable except section 307 of the Indian Penal Code It is also submitted that the raid was conducted at 1.15 AM on 12.01.2019 and the present case has been lodged on the same day at 4.30 AM. As per the first information report, the police went to arrest accused of another case in the night at 2.00 AM who was absconding but still they could not arrest the culprit which itself is fake and concocted story. There is no specific allegation of causing injury to anyone. No injury report is available on record and, thus, Section 307 of the Indian Penal Code would not attract. Lastly, it is submitted that two criminal cases are pending against the petitioners in which they are on bail.

5. Learned APP has opposed the prayer for bail.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in



the event of arrest or surrender before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate, III, Barh, in Bakhtiyarpur PS Case No.17 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973, and further (i) that the petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bonds shall be cancelled by the Court below, (ii) that one of the bailors will be their own blood relation, preferably father, mother, brother, sister and or his wife, (iii) that the bailors shall also state on affidavit that they will inform the court concerned if the petitioners are made accused in any other case of similar nature after their release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse, and (iv) that 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.



7. The application stands allowed.

(Khatim Reza, J)

J. Alam/-

U		T	
---	--	---	--

