

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71626 of 2023

Arising Out of PS. Case No.-76 Year-2023 Thana- NADI P.S. District- Patna

1. Pappu Rai @ Pappu Kumar Son Of Panna Lal @ Pannu Lal Rai Resident Of Village - Jethuli, P.O. - Kachi Dargah, P.S. - Nadi Thana, District - Patna
2. Jitendra Rai @ Jitendra Kumar Son Of Ramdevan Ray @ Ramdevan Rai Resident Of Village - Jethuli, P.O. - Kachi Dargah, P.S. - Nadi Thana, District - Patna
3. Dinesh Rai @ Dinesh Kumar Son Of Ganni Gope @ Gathni Rai Resident Of Kachi Dargah, Jethuli, P.S. - Nadi Thana, District - Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 71550 of 2023

Arising Out of PS. Case No.-76 Year-2023 Thana- NADI P.S. District- Patna

1. Satyendra Rai @ Satyendra Kumar S/O Sitav Lal Yadav @ Sital Rai R/O Ward No. 6, Brahampura, Fulwar, P.S. - Banjaria, Distt. - East Champaran
2. Rajesh Rai @ Bharat Bhushan Bharti S/O Sitav Lal Yadav R/O Jethuli, Kachhi Dargah, P.S. - Nadi Thana, Distt. - Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 74172 of 2023

Arising Out of PS. Case No.-76 Year-2023 Thana- NADI P.S. District- Patna

1. Ramesh Chandra Nirala @ Ramesh Rai @ Ramesh Gope Son Of Late Sitlal Rai @ Sitab Lal Rai R/O- Jethuli Ps- Nadi Dist- Patna
2. Lappu Rai @ Ritesh @ Ritesh Kumar @ Lakhu Rai @ Pappu Rai Son Of Pannu Lal Rai @ Pathnu Lal Rai R/O- Jethuli Ps- Nadi Dist- Patna
3. Sanjiv Rai @ Sanjiv Kumar Son Of Late Randevan Rai @ Late Ram Devan Singh @ Ramdeo Rai R/O- Jethuli Ps- Nadi Dist- Patna
4. Prabhu Rai @ Prabhu Dayal Singh Son Of Late Randevan Rai @ Late Ram Devan Singh @ Ramdeo Rai R/O- Jethuli Ps- Nadi Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with



CRIMINAL MISCELLANEOUS No. 74402 of 2023

Arising Out of PS. Case No.-76 Year-2023 Thana- NADI P.S. District- Patna

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Umesh Rai @ Umesh Kumar Son Of Late Sitab Lal Rai @ Sital Rai R/O-
Jetuli, P.S.- Nadi, District- Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 71626 of 2023)

For the Petitioner/s : Ms. Soni Shrivastava, Advocate
Mr. Ravi Bhardwaj, Advocate
Mr. Gaurav Singh, Advocate
For the Opposite Party/s : Mr. Md. Ataur Rahman, APP
For the Informant : Mr. Dharendra Kumar Sinha, Advocate
Mr. Ajay Kumar Sinha, Advocate
Mr. Yaspal Yadav, Advocate

(In CRIMINAL MISCELLANEOUS No. 71550 of 2023)

For the Petitioner/s : Ms. Soni Shrivastava, Advocate
Ms. Sarandha Suman, Advocate
Ms. Aditi Sharma, Advocate
For the Opposite Party/s : Mr. Rajiv Nayan, APP
For the Informant : Mr. Dharendra Kumar Sinha, Advocate
Mr. Ajay Kumar Sinha, Advocate
Mr. Yaspal Yadav, Advocate

(In CRIMINAL MISCELLANEOUS No. 74172 of 2023)

For the Petitioner/s : Mr. Ghanshyam Tiwary, Advocate
For the Opposite Party/s : Mr. Nand Kishore Prasad, APP
For the Informant : Mr. Dharendra Kumar Sinha, Advocate
Mr. Ajay Kumar Sinha, Advocate
Mr. Yaspal Yadav, Advocate

(In CRIMINAL MISCELLANEOUS No. 74402 of 2023)

For the Petitioner/s : Ms. Namrata Mishra, Advocate
For the Opposite Party/s : Mr. Narendra Kumar Singh, APP
For the Informant : Mr. Dharendra Kumar Sinha, Advocate
Mr. Ajay Kumar Sinha, Advocate
Mr. Yaspal Yadav, Advocate

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**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

7 30-08-2024 Heard learned counsel for the petitioners, learned

counsel appearing on behalf of the informant as well as learned

APP for the State.

2. The petitioners seeks bail in anticipation of their



arrest in a case registered for the offences punishable under Sections 147, 148, 149, 342, 448, 302, 307 and 506 of the Indian Penal Code and Section 27 of the Arms Act in connection with Nadi P.S. Case No. 76 of 2023.

3. As per prosecution case, as stated in the fardbeyan of the informant that on 19.02.2023 at about 11:00 AM, his nephew was going towards his home in his car, when the people of Ramesh Rai, 30 known persons and 15-20 unknown persons have obstructed the way by putting stone chips and sand. His nephew requested Ramesh Rai and Satish Rai @Bacha Rai to remove the obstruction upon which Bacha Rai got infuriated and on his indication his family members started firing indiscriminately from riffle, pistol and country made katta. His nephew any how managed to escape from there, after which these people attacked at his house and started firing indiscriminately with intention to kill all his family members, due to which Gautam Kumar, Raushan Kumar, Nagendra Rai, Munarik Rai and Chanarik Rai received bullet injuries. Being shot by bullet, Gautam Kumar and Raushan Kumar succumbed to their injuries on 19.02.2023 and Munarik Rai died on 20.02.2023 during treatment at PMCH whereas Nagendra Rai and Chandarik Rai are in critical condition and undergoing



treatment at PMCH.

4. Learned counsels for the petitioners submitted that petitioners are quite innocent and they have been falsely implicated in this case and have not committed any offence as alleged against the petitioners in the complaint and the same are baseless, absurd, misleading and concocted. They further submits that at the very outset, it is significant to state that there is no specific allegation of firing upon the petitioners and all the allegations are general and omnibus in nature and there is delay in lodging the FIR which has not been satisfactorily explained by the informant. It is further submitted that from perusal of the F.I.R., it appears that there is no specific allegation to show that the F.I.R. named accused persons shot the deceased persons. Hence, no case under Section 302 and other allied Sections of the I.P.C. is made out against the petitioners. It is imperative to point out that the present case is filed only due to business and political rivalry. Learned counsel for the petitioners in Cr. Misc. No. 71626 of 2023 submits that petitioners have got no criminal antecedent as stated in para-3 of bail petition while in Cr. Misc. No. 71550 of 2023, petitioner no.1 namely Satyendra Rai has got one criminal antecedent and other petitioner has got no criminal antecedent. Learned counsel for the petitioners in Cr.



Misc. No. 74172 of 2023 submits that petitioner no. 1 has got three criminal antecedents and petitioners no. 2-4 have got no criminal antecedent. Learned counsel for the petitioner in Cr. Misc. No. 74402 of 2023 submits that petitioner has got four criminal antecedents. Learned counsel for the petitioner has submitted that the anticipatory bail application is maintainable even after issuance of the process under Section 82 of the Cr.P.C.

5. Learned counsel for the petitioners has further relied upon the case of ***Santosh Yadav @ Santosh Kumar Vs. The State of Bihar, Cr. Misc. No. 38750 of 2021***, where the Hon'ble Patna High Court has held that: -

“Anticipatory bail application is maintainable even after issuance of process under Section 82 of the Cr.P.C. though the accused on merits may not be entitled to seek relief based on his conduct leading to issuance of process under Section 82 but then definitely maintainability of an anticipatory bail application after issuance of process under Section 82 is



definitely not barred.”

6. Learned A.P.P. for the State and learned counsel for the informant have vehemently opposed the prayer for anticipatory bail of the petitioner because it is a case of four murder. It has been submitted by learned counsel for the informant that the proclamation was executed on 07.05.2023 against the petitioners under Section 82 of Cr.P.C. and despite that, the petitioners have not appeared before the Investigating Officer and the petitioners have filed the present anticipatory bail application for grant of anticipatory bail after issuance of the proclamation under Section 82 of Cr.P.C. against the petitioners, therefore, prays that the petitioners does not deserve the privilege of anticipatory bail. It has further been submitted that in paragraph nos. 78 and 79 of the supplementary case diary, the witnesses have stated under Section 161 of Cr.P.C. that the petitioners fired upon Nagendra Rai who is the father of Raushan Kumar (deceased). It is further submitted by learned counsel for the informant that in course of investigation, the co-accused Satyendra Rai, who is the full brother of the petitioner and others committed murder of Nikhil Kumar, the nephew of Chanarik Rai (deceased), for which Nadi P.S. Case No. 150 of 2023 has been lodged on 27.04.2023. Learned counsel for the



informant has further relied upon the case of ***Abhishek Vs. State of Maharashtra (2022)14 SCC 529*** where it was held that:-

“As regards the implication of proclamation having been issued against the appellant, we have no hesitation in making it clear that any person, who is declared as an ‘absconder’ and remains out of reach of the investigating agency and thereby stands directly at conflict with law, ordinarily, deserves no concession or indulgence.”

7. Learned counsel for the informant further relied upon the case of ***State of Haryana Vs. Dharamraj (Cr. Appeal No. 2635 of 2023 @ out of SLP (Cri.) No. 2256 of 2022, reported in 2023 Live Law (SC) 739: 2023 INSC 784***, wherein the Hon’ble Apex Court has held that: *“Anticipatory bail can be granted to a person to a proclaimed offender only in exceptional and rare case.”* He next submits that if the petitioners at this stage are granted anticipatory bail, it will affect the investigation and proper investigation and interrogation of police is required in this case. It is further



submitted that the materials available on the record do not reveal any exceptional or rare case due to which the plea of anticipatory bail may be considered.

8. On perusal of FIR, case diary, and impugned order dated 11.08.2023, it appears that witnesses have supported the prosecution case in which five persons received gunshot injury and out of these five persons, four persons died due to gun shot injury and granting anticipatory bail will affect the investigation, so considering all the facts and circumstances of the case, including nature of allegation, gravity of offence and as investigation against the petitioners are still going on and proper investigation and interrogation of police is required in this case, so I am not inclined to grant the privilege of anticipatory bail to the petitioners.

9. Accordingly, the prayer for anticipatory bail of the above-named petitioners is hereby rejected.

(Ramesh Chand Malviya, J)

Brajesh Kumar/-

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