

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79194 of 2024

Arising Out of PS. Case No.-216 Year-2020 Thana- BANMANKHI District- Purnia

- 1. Girendra Mandal @ Girendra Kumar Mandal, Son of Late Kanak Lal Mandal, Resident of Village- Pipra, P.S.- Banmankhi, District- Purnea (Bihar)
- 2. Devan Mandal @ Devendra Kumar Mandal, Son of Late Kanak Lal Mandal, Resident of Village - Pipra, P.S. - Banmankhi, District - Purnea (Bihar)
- 3. Satendra Mandal, Son of Late Kanak Lal Mandal, Resident of Village - Pipra, P.S. - Banmankhi, District - Purnea (Bihar)

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Pushkar Narayan Sahi, Senior Advocate
Mr. Saket Tiwary, Advocate
For the State : Mr. Mithlesh Kumar Khare, APP
For the Informant : Mr. Dr. Manoj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 14-11-2024 Heard Mr. Pushkar Narayan Sahi, learned Senior Counsel assisted by Mr. Saket Tiwary, learned counsel for the petitioners, Dr. Manoj Kumar, learned counsel for the informant and Mr. Mithilesh Kumar Khare, learned APP for the State.

2. The three petitioners in this case are seeking regular bail in connection with Banmankhi P.S. Case No. 216 of 2020 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 379, 302, 506, 120(B) of the Indian Penal Code. They are in custody since 24.08.2024. The petitioner no. 1 has got nine criminal antecedents in which the cases are pending, in three cases he has been acquitted and in nine cases, it is stated

that police has submitted a final form which has been accepted by the learned court. The petitioner no. 2 has got two criminal antecedents in which case are still pending, in two cases he has been acquitted and in one case police has submitted final form which has been accepted by the learned court. The petitioner no. 3 has got 12 criminal antecedents in which cases are pending against him and in one case he has been acquitted.

3. As per the prosecution story, on 23.08.2020 at around 08:30 pm, the accused persons (1) Girendra Mandal (petitioner no. 1), (2) Jai Kumar Mandal, (3) Rinku Mandal, (4) Devan Mandal (petitioner no. 2), (5) Rakesh Mandal, (6) Raushan Mandal, (7) Satendra Mandal (petitioner no. 3), (8) Ranjan Mandal, (9) Raja Mandal, (10) Subhash Mandal, (11) Chandan Mandal, (12) Santosh Mandal, (13) Chandan Mandal, (14) Anjan Sinha, (15) Mithu Sinha and (16) Gitesh Mandal, all variously armed were sitting in the house of accused Girendra Mandal (petitioner no. 1). When the father of the informant Sushil Kumar Sinha (since deceased) came in front of the house of petitioner no. 1, then petitioner no. 1 on the point of pistol stopped the father of the informant and forcibly dragged him in the campus. It is alleged that petitioner no. 1 had put country-made katta in his mouth and sons of petitioner no. 1 Jai Kumar Mandal and Rinku were pressing his left hand and co-accused

Rakesh Mandal and Raushan Mandal were pressing right hand of Sushil Kumar Sinha. It is further alleged that Devan Mandal (petitioner no. 2), Satendra Mandal (petitioner no. 3), Subhash Mandal and Chandan Mandal were pressing both the legs of the father of the informant. In the meantime, petitioner no. 1 brought iron rod from his house and assaulted on the right hand of the father of the informant as a result of which his right hand was broken. Thereafter, on the order of petitioner no. 1, all other co-accused persons assaulted the father of the informant. The father of the informant was brought to Banmakhi Hospital for his treatment thereafter doctors referred him to Sadar Hospital, Purnea and Bhagalpur Medical College and on 24.08.2020, the father of the informant died.

4. Earlier, these petitioners had moved this Court for grant of pre-arrest bail which were rejected twice, firstly on the ground of suppression of criminal antecedents and secondly, on merit. The order dated 12.07.2024 passed in Criminal Miscellaneous No. 81673 of 2023 rejecting the prayer for anticipatory bail of the petitioners would show that there were allegations against the petitioners and commission of overt act has been alleged against petitioner no. 1, they had huge criminal antecedents and at the said stage, even process under Section 82 Cr.PC had been issued against them. The said order rejecting

their prayer for anticipatory bail was challenged before the Hon'ble Supreme Court, however, the SLP was withdrawn.

5. Learned Senior Counsel for the petitioners submits that this Court may consider granting regular bail to the petitioners, particularly, petitioner nos. 2 and 3 against whom there is no specific allegation of commission of overt act. Arguing the case for petitioner no. 1, learned Senior Counsel submits that he has been falsely implicated and in course of investigation, the police had not found sufficient materials against the petitioners, submitted a final form but differing with the police report, the learned Magistrate took cognizance of the offence under Sections 147, 148, 149, 341, 323, 379, 302, 506 and 120B IPC.

6. On the other hand, learned counsel for the informant submits that on a bare perusal of the first information report, it would appear that there are specific allegations against these petitioners. They have actively participated in the occurrence and by noticing the kind of allegations against the petitioners and the materials which had come on the record in course of investigation, the learned Magistrate differed with the police report, therefore, at this stage, a prima-facie case has been found against them.

7. It is also submitted that the case is of the year 2020

but these petitioners have surrendered very recently on 23.08.2024. Considering the kind of criminal antecedents they have, if they are released on bail, the trial is likely to be badly affected.

8. Learned APP for the State has also opposed the prayer for bail of the petitioners.

9. Having regard to the submissions noted hereinabove and considering that there are specific allegation of commission of overt act against the petitioner no. 1 and active participation of petitioner nos. 2 and 3 in commission of murder of the father of the informant, as also considering the huge criminal antecedents of the petitioners and the fact that the learned Magistrate has already found a prima-facie case against them and they have surrendered very recently, this Court is not inclined to grant privilege of regular bail to the petitioners. The prayer is refused.

10. Let the trial be expedited.

11. This application stands dismissed.

(Rajeev Ranjan Prasad, J)

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