

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81673 of 2023

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 R/O Village- Pipra, P.S.- Banmankhi, District- Purnea
2. Devan Mandal @ Devendra Kumar Mandal Son of Late Kanak Lal Mandal R/O Village- Pipra, P.S.- Banmankhi, District- Purnea
3. Satendra Mandal @ Satyendra Mandal Son of Late Kanak Lal Mandal R/O Village- Pipra, P.S.- Banmankhi, District- Purnea

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners	:	Mr. Viveka Nandsingh, Advocate
For the State	:	Mr. Madhura Nand Jha, APP
For the Informant	:	Dr. Manoj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 12-07-2024 Heard learned counsel for the petitioners, learned counsel for the informant and learned APP for the State.

2. This is an application seeking pre-arrest bail on behalf of the petitioners in connection with Banmankhi P.S. Case No. 216 of 2020 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 325, 120B, 302, 379 and 506 of the Indian Penal Code.

3. Earlier, the prayer for bail of the petitioners was not entertained by this Court in Cr. Misc. No. 47656 of 2023 for the reason that they had not stated truly their criminal antecedents in paragraph '3' of the application. This Court, however, rejected their application imposing a cost of Rs.25,000/- but granted liberty



to the petitioners to file a fresh application, if so advised for consideration of their prayer for anticipatory bail.

4. In the background of the aforesaid observations of this Court, the present application has been preferred. In the present application, it is stated that petitioner no. 1 has got '8' criminal antecedents whereas petitioner no. 2 has got '4' criminal antecedents out of which in two cases either a final form has been submitted or he has been acquitted. So far as petitioner no. 3 is concerned, he is accused in two cases out of which in one case, he is on bail and in one case, he is acquitted. Contrary to this statement of the petitioners, in the counter affidavit, the informant has stated that petitioner no. 1 has got '10' criminal antecedents and in the present case, it is stated that the learned trial court has issued process under Section 82 CrPC vide order dated 04.05.2024. The fact that the process under Section 82 CrPC has been issued against the petitioners has not been controverted by learned counsel for the petitioners.

5. As per the prosecution story, on 23.08.2020 at around 08:30 pm 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.

6. Learned counsel for the petitioners submits that after



investigation, police had submitted a final form but the learned Magistrate differed with the police report and has taken cognizance for the offences under Sections 147, 148, 149, 341, 323, 325, 379, 302, 506, 120(B) of the Indian Penal Code and ordered to issue summons to the petitioners. According to him, it is a case of false implication due to political rivalry.

7. On the other hand, learned counsel for the informant and learned APP for the State would submit that there is a direct allegation against the petitioners. It is stated that these petitioners had actively participated in the alleged crime in which father of the informant was killed. Specific overt acts have been alleged particularly against petitioner no. 1. Learned counsel submits that the petitioner no. 1 is a local muscleman against whom there are several criminal cases pending but in collusion with the police in most of the cases, he is avoiding his arrest over the period. For purpose of the execution of warrant and execution of the process issued against the petitioners, the informant has filed Cr. Misc. No. 522 of 2024.

8. I have heard learned counsel for the parties, perused the records including copy of the orders passed by learned Co-ordinate Bench of this Court in the case of Subhash Mandal @ Subhash Chandra Mandal (Cr. Misc. No. 72100 of 2023), Cr. Misc. No. 35246 of 2023 (Annexure '5') and Cr. Misc. No. 45461



of 2023 (Annexure '6') by which some of the co-accused have been granted privilege of anticipatory bail.

9. This Court finds from the records that there are specific allegations against the petitioners, commission of overt act has been alleged against petitioner no. 1 who has huge criminal antecedents, the other petitioners are also said to have participated in the alleged crime, they have also got criminal antecedents and at this stage, even process under Section 82 CrPC has been issued against them, in these circumstances, this Court finds that the case of the petitioners is not standing on similar footing with the co-accused who have been granted privilege of anticipatory bail from learned Co-ordinate Bench of this Court.

10. The prayer for anticipatory bail of the petitioners is, thus, refused.

11. In case the petitioners surrender and pray for regular bail in the court below within a period of four weeks from today, their prayer for regular bail shall be considered on their own merit.

12. This application stands disposed of

(Rajeev Ranjan Prasad, J)

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