

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38017 of 2025

Arising Out of PS. Case No.-5 Year-2024 Thana- Chhaudahi District- Begusarai

1. Ram Balak Yadav S/o Mahendra Yadav R/o Vill. - Pokhara, P.S. - Bahadurpur Alauli, Distt.- Khagaria, State- Bihar, Indian Citizen
2. Chandan Kumar @ Chandan Yadav @ Alok Kumar Saxena @ Alok Saxena S/o Ram Balak Yadav R/o Vill. - Pokhara, P.S. - Bahadurpur Alauli, Distt.- Khagaria, State- Bihar, Indian Citizen

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Birmani Kumar, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

3 08-08-2025 Heard learned counsel for the petitioners, learned APP for the State and perused the case diary.

2. The petitioners seek bail in connection with Chhaurahi P.S. Case No. 05 of 2024, instituted for the offences punishable under Sections 447, 387, 389, 506/34 of the Indian Penal Code, read with Sections 10, 13, 17, 18 and 20 of the Unlawful Activities (Prevention) Act.

3. The prosecution case, in short, is that on 16.03.2024 at about 23:00 hours informant received a call – who is an owner of a brick kiln – from one of his employees, who informed that nine people came on three motorcycles and handed him over a letter of Communist Party (*Maovadi*, North



Bihar, Central Zonal Committee) which contained a demand of one lakh rupees by 26.03.2024. The letter was signed by one 'Sanesh Bhagat'. Those people informed that the letter be handed over to the owner of brick kiln. It was also said that if the owner informs the incident to anyone or does not pay the levy then there would be consequence of blasting with bomb.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in the present case. Charge-sheet has been submitted in this case. No incriminating material have been recovered from the conscious possession of the petitioners. Learned counsel for the petitioners also submits that the petitioners are not named in the FIR. Name of the petitioners have transpired in this case on the basis of confessional statement made by co-accused, namely, Sandeep Yadav and the same has got no evidentiary value. The petitioners have never made any demand of levy/ransom from the informant or from any other person. It is further submitted that the prosecution witnesses have not named the petitioners and the entire evidence collected by the Investigating Officer do not describe about any involvement of the petitioners in commission of the crime. The petitioners have been remanded in this case on 04.12.2024 and have got one criminal antecedent



in which they are on bail.

5. Learned APP for the State has vehemently opposed the prayer for grant of bail to the petitioners and submits that there is ample material against the petitioners in the case diary to establish their active participation in the offence beyond the reasonable doubt, coupled with the fact that the petitioners have got one criminal antecedent and they have also confessed their complicity in the alleged occurrence, which fact finds mention at paragraph nos. 55 and 56 of the case diary. Learned APP for the State further referring to Section 43-D (5) and 43-D(6) of the Unlawful Activities Prevention Act, 1967 submitted that bail must be rejected if there are reasonable grounds for believing that the accusation against person alleged of offences punishable under Chapter IV and VI of the UAP Act is prima facie true. Learned APP for the State further submitted that since police after investigation submitted charge-sheet under Section 302/34, 120B of the Indian Penal Code and Sections 16, 17, 18, 19, 20, 21, 22 of the UAP Act, prima facie, the involvement of the petitioner in the alleged offences cannot be denied. Learned counsel, therefore, contended that in the light of the present facts and circumstances of the case, the prayer of the petitioner for grant of bail may be rejected.



6. For better appreciation of the case, Section 43-D of UAP Act, is quoted hereinbelow:-

“ 43-D. Modified application of certain provisions of the Code.-

(1) Notwithstanding anything contained in the Code or any other law, every offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of clause (c) of section 2 of the Code, and “cognizable case” as defined in that clause shall be construed accordingly.

(2) (4)

(5) Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release: Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima facie true.

(6) The restrictions on granting of bail specified in sub-section (5) is in addition to the restrictions under the Code or any other law for the time being in force on granting of bail.

(7) Notwithstanding anything contained in sub-sections (5) and (6), no bail shall be granted to a person accused of an offence punishable under this Act, if he is not an Indian citizen and has entered the country unauthorisedly or illegally except in very exceptional circumstances and for reasons to be recorded in writing.”



7. Section 43-D(5) of the UAP Act modifies the application of the general bail provisions in respect of offences punishable under Chapter IV and VI of the UAP Act. From bare perusal of Section 43-D(5) it is evident that the said Section puts a complete embargo on the powers of the Court to release an accused on bail. The Hon'ble Apex Court in ***Gurwinder Singh vs. State of Punjab and Anr. [(2024) 5 SCC 403]*** has observed that the often quoted phrase “*bail is the rule, jail is the exception*” is not applicable in the cases under UAP Act. It is further observed by the Hon'ble Apex Court that if there are reasonable grounds for believing that the accusation against such person as regards commission of offence(s) under Chapter IV and/or Chapter VI of the UAP Act, is prima facie true, such person shall not be released on bail. After perusing the material available in the case dairy as well as the report submitted by the police under Section 173(2) of the Cr.P.C., it appears that the accusation against the petitioners is found, prima facie, true.

8. On perusal of the report sent by the learned Court below, it appears that the trial is at the verge of conclusion and the case is going on for defence evidence.

9. Having considered the rival submission of the parties and the material placed on record, present stage of the



case as also taking into account the embargo put under Section 43-D(5) of the UAP Act, this Court is not inclined to grant bail to the petitioners.

10. Accordingly, the prayer for grant of bail to the petitioners is, hereby, rejected.

11. Learned trial Court is directed to expedite the trial.

(Rudra Prakash Mishra, J)

Rajorshi/-

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

