

(2021) 01 PAT CK 0186

Patna High Court

Case No: Criminal Miscellaneous No. 28077 Of 2020

Sande Yadav And Anr

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: Jan. 22, 2021**Acts Referred:**

- Indian Penal Code, 1860 - Section 34, 147, 148, 149, 307, 387
- Code Of Criminal Procedure, 1973 - Section 438(2)

Hon'ble Judges: Ahsanuddin Amanullah, J**Bench:** Single Bench**Advocate:** Dr. Manoj Kumar, Sanjay Kumar Sharma**Final Decision:** Disposed Of

Judgement

1. The matter has been heard via video conferencing.
2. Heard Dr. Manoj Kumar, learned counsel for the petitioners and Mr. Sanjay Kumar Sharma, learned Additional Public Prosecutor (hereinafter referred to as the "APP"™) for the State.
3. The petitioners apprehend arrest in connection with Lodipur PS Case No. 106 of 2018 dated 22.05.2018, instituted under Sections 147/148/149/387/307 of the Indian Penal Code and 27 of the Arms Act.
4. The allegation against the petitioners is that when the informant was getting his land ploughed, under agreement from one Kaushalya Devi, the petitioners and other accused had reached there with arms and had started abusing the informant and had also stopped the tractor which was doing so.

5. Learned counsel for the petitioners submitted that there is specific allegation of firing on three other named co-accused and not against the petitioners and only thereafter it is alleged that the petitioners also fired. Learned counsel submitted that there is no injury on the part of the informant which itself falsifies the whole prosecution story. Learned counsel submitted that the fact is that there is an agreement between co-accused, Mandeep Yadav, and Kaushalya Devi, made on 20.04.2015 with regard to the lands, in question, and the petitioners are coming in possession of the lands and, thus, there was no question of demand of any Rangdari from the informant as has been alleged. Learned counsel submitted that one of the named co-accused, Surendra Yadav @ Surendra Kumar Yadav @ Sopi Yadav, against whom there is specific allegation of firing has been granted anticipatory bail along with co-accused, Pramod Yadav @ Passo Yadav, Mandeep Yadav @ Mandeo Yadav by a co-ordinate Bench on 15.07.2019 in Cr. Misc. No.16431 of 2019.

6. Learned APP submitted that there is allegation of firing against the petitioners. However, he did not controvert that the allegation is general and omnibus in nature.

7. 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.25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Bhagalpur, in Lodipur PS Case No.106 of 2018, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973, and further (i) that one of the bailors shall be a close relative of the petitioners, (ii) that the petitioners and the bailors shall execute bond with regard to good behaviour of the petitioners, and (iii) that the petitioners shall give undertaking to the Court that they shall not indulge in any criminal/illegal activity. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of their bail bonds.

8. The application stands disposed off in the aforementioned terms.