

**IN THE HIGH COURT OF JUDICATURE AT
PATNA**

Criminal Miscellaneous No.29957 of 2015

Arising Out of PS.Case No. -13 Year- 2015 Thana -BAHADURPUR District-
DARBHANGA

- =====
1. Indu Jha Son of Ram Vinod Jha, resident of Mohalla - Balbhadrapur (Navtol), P.S. - Bahadurpur, District - Darbhanga.
 2. Ajay Thakur, Son of Late Mahabir Thakur, resident of MOhalla - Shahganj Banta, P.S. - Laheriasarai, District - Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Nath Jha

For the Opposite Party/s : Mr. Ahmad Ali (App)

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**CORAM: HONOURABLE MR. JUSTICE HEMANT
KUMAR SRIVASTAVA**

ORAL ORDER

5 24-11-2015

Heard learned counsel for the petitioners as well as learned
Additional Public Prosecutor for the State.

Petitioner No. 1 Indu Jha and petitioner No. 2 Ajay Thakur are in jail custody since 19.01.2015 and 24.01.2015 respectively in a case registered for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 25(1-b)A/26/35 of the Arms Act. Subsequently, Sections 201 and 120(B) of the Indian Penal Code were added.

Petitioner No. 1 is named whereas petitioner No. 2 is not named in the First Information Report. The informant is not an eye-witness of the alleged occurrence but one Dayanand Kamti claimed himself to be eye-witness of the allged occurrence when his statement under Section 161 Cr.P.C. was recorded at paragraph No. 32 of the case diary. Again, the statement of the aforesaid witness was recorded under Section 164 of the Cr. P.C. which has been incorporated by the I.O. at paragraph No. 55 of the case diary. The confessional statement of petitioner No. 1



was recorded at paragraph No. 79 of the case diary and on the basis of the aforesaid confessional statement, the fire-arm used in the alleged crime is said to have been recovered from the house of petitioner No. 2.

Learned counsel for the petitioners submits that except Dayanand Kamati none of the prosecution witnesses has claimed to have seen the actual killing of the deceased and, as a matter of fact, the so-called eye-witness, namely, Dayanand Kamati is also not an eye-witness of the alleged occurrence because in his statement recorded under Section 164 Cr. P.C., he specifically stated that the petitioner No. 1 alongwith deceased left him in a room and went in a hut where occurrence took place. It is further contended by him that so far as petitioner No. 2 is concerned, except so called recovery of fire-arm there is nothing against him.

Considering the aforesaid facts and circumstances as well as submissions of the parties, I am not inclined to release the petitioner No. 1, namely, Indu Jha on bail and accordingly, his prayer for bail, stands, rejected.

So far as the petitioner No. 2, namely, Ajay Thakur is concerned, let he be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Darbhanga in connection with Bahadurpur P.S. Case No. 13 of 2015.

(Hemant Kumar Srivastava, J)

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