

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.44550 of 2015

Arising Out of PS.Case No. -164 Year- 2013 Thana -AADAPUR District- EAST CHAMPARAN
(MOTIHARI)

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1. Bhikhari Rai Son of Raghunath Rai
2. Raghunath Rai Son of Late Kuldeep Rai
Resident of Village - Katgenwa, P.S.- Adapur, District - East Champaran
..... Petitioners

Versus

The State of Bihar Opposite Party

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Appearance :

For the Petitioner/s : Mr. Dilip Kumar Tondon, Advocate
For the Opposite Party/s : Mr. Sadanand Paswan, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 13-10-2015 Heard learned counsel for the petitioners and learned
counsel for the State.

It is contended that the application so far petitioner
no. 1, namely, Bhikhari Rai, is concerned, has become
infructuous, in view of the fact that during pendency of the
application he has already been taken into custody. In that view
of the mater, the application so far as petitioner no. 1 is
concerned, is dismissed as infructuous.

The petitioner no. 2 seeks pre-arrest bail in
connection with Adapur P.S. Case No. 164/2013 registered
under Sections 323, 341, 504, 447/34 of the Indian Penal Code,
3(1)(x) of the S.C. & S.T. (P.O.A.) Act (hereinafter referred to
as 'the Act') and Section 35 of the Arms Act.

It is contended that all the offences, except Section 3(1)(x) of the Act and Section 35 of the Arms Act, are bailable in nature. It is further contended that even if the entire allegations made in the FIR are taken to be true, the ingredients of the offence punishable under Section 3(1)(x) of the Act would not be attracted. Further, there is nothing to show that the revolver said to have been recovered from the place of occurrence belonged to the petitioner.

Learned counsel for the State has opposed the application of the petitioners filed under Section 438 Cr. P.C.

Regard being had to the facts and circumstances of the case, in the event of arrest or surrender in the court below within six weeks from today, the petitioner No.2, namely, Raghunath Rai, is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of Sri Divesh Kumar, learned Judicial Magistrate-1st Class, Raxaul at Motihari in connection with Adapur P.S. Case No. 164/2013 subject to the conditions as laid down under Section 438(2) Cr. P.C.

(Ashwani Kumar Singh, J.)

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