

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41876 of 2014

Arising Out of PS.Case No. -33 Year- 2006 Thana -MATIHANI District- BEGUSARAI

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1. Mukund Singh
 2. Arvind Singh @ Arvind Kumar @ Arvind Kumar Singh
 3. Rajiv Kumar @ Rajiv Singh
 4. Bambam Singh @ Ram Shankar Singh

All sons of Upendra Singh Resident of Village-Matihani, P.S.-Matihani,
District-Begusarai.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Shanker Pankaj

For the Opposite Party/s : Mr. Atul Chandra(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

03/ 21-04-2015

The application with regard to petitioner
no. 3 has already been disposed of vide order dated 10.04.2015
since he was arrested.

Heard learned counsels for the petitioners,
State and the informant.

The petitioner nos. 1, 2 and 4 are
apprehending their arrest in a case registered for the offences
punishable under Sections 302/34 of the Indian Penal Code and
27 of the Arms Act.

The accusation is of killing the son of the informant by resorting to indiscriminate firing.

The petitioners were named in the FIR with specific accusation, but on conclusion of the investigation they were not sent up for trial. The final form was accepted but during trial of the co-accused two applications for summoning the petitioners under Section 319 of the Cr.P.C. was preferred by the prosecution which was rejected by learned trial court twice vide order dated 29.01.2010 and 03.08.2011. The order dated 03.08.2011 was challenged by the informant in Cr. Misc. No. 34996 of 2011 when this Court directed the learned trial court to pass order afresh considering the evidence on record and consequently the petitioners have been summoned in exercise with the power under Section 319 of the Cr.P.C. vide order dated 08.08.2014 passed by learned trial court.

It is submitted by learned senior counsel for the petitioners that the petitioners were not sent up for trial. The final form was accepted and twice the applications under Section 319 of the Cr.P.C. for summoning the petitioners were rejected by the learned trial court. The petitioners undertake to appear on each and every date during trial.

It is submitted by learned counsel for the



informant that the investigation was misdirected and in spite of materials on record the petitioners were not sent up for trial and this fact has also been noticed by this Court which gets reflected from the order dated 17.06.2014 passed in Cr. Misc. No. 34996 of 2011. Moreover, five prosecution witnesses have supported the accusation against the petitioners during trial of co-accused.

Considering the fact that the petitioners were not sent up for trial, final form was accepted and they have been summoned in exercise of jurisdiction under Section 319 of the Cr.P.C., though, twice such application was rejected by the learned trial court, let the above named petitioners except petitioner no. 3 be released on anticipatory bail in the event of their arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-Vth, Begusarai in connection with Sessions Trial No. 668 of 2008 arising out of Matihani P.S. Case No. 33 of 2006, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The learned trial court will positively

cancel the bail bonds of the petitioners, if they default for two consecutive occasions.

(Dinesh Kumar Singh, J)

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