

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50031 of 2014

Arising Out of PS.Case No. -266 Year- 2013 Thana -BETTIAH TOWN District-
WESTCHAMPARAN(BETTIAH)

1. Dilip Patel S/o Kishori Patel Resident of Banuchhapra, Tola - Dusaiya,
P.S. Manuapoll, District - West Champaran

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.50972 of 2014

Arising Out of PS.Case No. -266 Year- 2013 Thana -BETTIAH TOWN District-
WESTCHAMPARAN(BETTIAH)

1. Harikant Mishra @ Murari Mishra Son of Late Dhanraj Mishra Resident
of Village - Chhapawa Sagun, P.S.- Sugauli, District -East Champaran

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.50031 of 2014)

For the Petitioner/s : Mr. Siya Ram Shahi

For the Opposite Party/s : Mr. Satyendra Prasad (App)

(In Cr.Misc. No.50972 of 2014)

For the Petitioner/s : Mr. Sanjeev Kumar

For the Opposite Party/s : Mr. Gulnar Begum(App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH

ORAL ORDER

4 07-08-2015

Heard learned counsel for the petitioners and the
State.

Petitioners are apprehending their arrest in
Bettiah Town P.S. Case No. 266 of 2013 registered under sections
302/120B/34 of the Indian Penal Code and 27 of the Arms Act.

Prosecution case is that petitioner Dilip Patel along with others came on two motorcycles near Durga Hotel. Co-accused Sanjay Mishra fired causing injury on the temple of the brother of the informant namely Kumar Ravi @ Ramu. Petitioner Dilip Patel caused fire arm injury on the abdomen of the victim whereas Alok Jha (non petitioner) caused injury on hand of the victim. The informant took the victim brother of the informant to hospital where he succumbed to the injuries.

It is submitted by the learned counsel for the petitioners that co-accused Umesh Ram, Alok Jha and Manish Kumar have confessed their guilt to have killed the victim. On conclusion of investigation the petitioners were not sent up for trial. The learned court below after differing with the police report has taken cognizance against the petitioners also under sections 302, 120B/34 I.P.C and u/s 27 of the Arms Act. It is further submitted that at the earlier point of time one Pankaj was killed leading to registration of Bettiah Town P.S. Case No. 197 of 1993 against the informant side wherein the petitioners were cited as witnesses hence as retaliatory measure the petitioners have been roped in the present case.

It is submitted the learned counsel appearing on behalf of Harikant Mishra @ Murari Mishra that no overt act

has been alleged against this petitioner. It is only alleged that one day prior to the occurrence this petitioner gave threatening to the informant.

It is submitted by the learned A.P.P. that considering the material collected during the investigation the learned Chief Judicial Magistrate differing with the final form took cognizance .The order of cognizance was challenged by the accused persons in quashing application before this court but the same has been dismissed.

Considering the rival submissions of the parties, let the learned court below consider the prayer for regular bail of the petitioners keeping in view the fact that accusation was not found true against the petitioners during the investigation and they were not sent up for trial, particularly the fact that no overt act is alleged against petitioner Harikant Mishra @ Murari Mishra but this court is not exercising discretion since he has criminal antecedent.

Accordingly the applications are disposed of.

(Dinesh Kumar Singh, J)

M.Rahman/-

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