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IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.22655 of 2015

Arising out of PS.Case No. -155 Year- 2013 Thana -BEUR District- PATNA

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Nagina Rai, son of Late Chulhai Rai, resident of Sipara, P.S. - Beur, District - Patna.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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with

Criminal Miscellaneous No.39301 of 2015

Arising out of PS.Case No. -155 Year- 2013 Thana -BEUR District- PATNA

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Munchun Kumar Rai @ Munchun Kumar, son of Late Ambika Rai @ Late Amik Rai, resident of village Sipara Dih, P.S. Beur District Patna.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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with

Criminal Miscellaneous No.30819 of 2015

Arising out of PS.Case No. -155 Year- 2013 Thana -BEUR District- PATNA

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Munna Kumar, S/o Kailash Mistri, resident of village - Raili, P.S. Bela, District – Gaya.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

(In Cr.Misc. No.22655 of 2015)

For the Petitioner : Mr. Ajay Kr. Thakur, Advocate.

For the Opposite Party : Mr. Surendra Prasad Singh (App)

(In Cr.Misc. No.39301 of 2015)

For the Petitioner : Mr. Bikramdeo Singh, Advocate.

For the Opposite Party : Mr. Bhanu Pratap Singh(App)

(In Cr.Misc. No.30819 of 2015)

For the Petitioner : Kumari Jyoti, Advocate.

For the Opposite Party : Mr. Satyendra Narayan Singh (App)

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

7 29-10-2015 Heard learned counsels for the petitioners and learned counsel for the State

The petitioner Nagina Rai is languishing in custody since 17.01.2015, petitioner Munchun Kumar Rai @ Munchun Kumar is languishing in custody since 18.01.2015 and petitioner Munna Kumar is languishing in custody since 19.01.2015 in connection with Beur P.S. Case No. 155 of 2013 for the offences instituted under Sections 302, 120(B)/34 of the IPC and 27 of the Arms Act.

The prosecution story, in brief, is that one Anand Kumar gave his fardbeyan on 26.06.2013 at P.M.C.H. at 6.00 hours before the S.H.O. of Beur Police Station, alleging therein inter alia that his brother Sonu Kumar used to do the work of property dealer as well as contract work in association with builder. During that course, his brother met with Shekhar Kumar @ Pramdhari Singh. The brother-in-law of Shekhar Kumar @ Pramdhari Singh happens to be *Sardhu* of Raghunath Rai whereas Shekhar Kumar @ Pramdhari Singh happens to be cousin son-in-law of Munchun Kumar Rai and the dispute with regard to *Lain-Dain* of Tata Victa with Munchun Rai is going on for which two cases were lodged in Beur Police Station by Shekhar Kumar and Shekhar Kumar asked

his brother to co-operate in the case and brother had given money to Raghunath Rai. It is further stated that on 25.06.2013 his brother was taking breakfast at Sipara Railway Gumti when he contacted his brother at 9.00 P.M. to his brother that he shall be coming. When at around 9.30 P.M. again contacted his brother he told that he is about to reach near the office of Nagina Rai. In the meantime, sound of firing was heard. His brother stopped talking to him. The informant ran towards the office of Nagina Rai. In the meantime, in the light of Pole, he saw Nagina Rai (2) Munchun Rai (3) Pandit Ji @ Ajay Yadav(4) Ganesh Kumar (5) Munna Kumar who is partner of Munchun Rai were fleeing away towards eastern direction. When the informant reached near the office of Nagina Rai he found his brother who has received fire-arm injury and was lying in unconscious condition and the blood was oozing out and was asking to help nearby people. He further saw that Raghunath Rai and his wife fleeing away towards western direction. On his hulla, Shekhar Kumar @ Paramdhari Singh came and gave information to the police, who arrived. Thereafter his brother was taken to P.M.C.H. in injured condition where in course of treatment, he was declared dead by the doctor.

It has been submitted on behalf of the petitioners that the petitioners have got no criminal antecedent. The petitioners are in

custody since 17.01.2015, 18.01.2015 and 19.01.2015 respectively and the charge sheet has been submitted in the case. There is no allegation of tampering with the evidence against the petitioners. The informant is not an eye witness to the occurrence. Whatever the informant has narrated in the F.I.R. i.e., on the basis of disclosure made by one Shekhar Kumar to him. The said Shekhar Kumar has been examined under Section 161 Cr.P.C. and under Section 164 Cr.P.C. From perusal of the statement of the said prosecution witness it would appear that there is admitted contradiction in respect to the manner of occurrence.

On behalf of the State it has been submitted that the petitioners are named in the F.I.R. and prosecution witness Shekhar Kumar is an eye witness to the occurrence whose statement has been recorded in paragraph no. 12 of the case diary. There is specific allegation attributing against the petitioners for firing upon the deceased due to which he succumbed to the injuries. The postmortem report in paragraph no. 17 of the case diary supports the allegation made by the said witness Shekhar Kumar. The other two witnesses also have supported the prosecution case whose statements have been recorded in paragraph nos. 13 and 14 of the case diary.

Considering the aforesaid facts and circumstances, I am

not inclined to grant bail to the petitioners. The same is rejected in Beur P.S. Case No. 155/2013, pending in the court of the learned J.M. Ist Class, Patna. Anyhow, the Trial Court is directed to take all necessary steps to expedite the trial and conclude the same preferably within a period of one year from the date of receipt/production of copy of this order.

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(Sudhir Singh, J)