

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.14913 of 2015

Arising Out of PS.Case No. -260 Year- 2014 Thana -BIHIYA District- BHOJPUR

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1. Bharat Sao @ Bharat Sahu S/o Late Munilal Sao
 2. Bhakola Sao @ Bhakola Sah, S/o Late Lallu Sao,
 3. Jay Kumar Sao @ Jai Kumar Sahu
 4. Sheo Kumar Sao @ Sheo Kumar Sah,
 5. Pappu Sah,
 6. Sanjay Sah, 3 to 6 are Sons of Bhual Sao @ Bhual Gond All resident of village - Karja, P.S. Behea, District - Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sheo Jee Mishra
For the Opposite Party/s : Mr. Sunil Kr.Pandey(App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

2 10-04-2015 Heard learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State.

Petitioners apprehend their arrest in connection with Behea P.S. Case No. 260 of 2014 registered for the offences punishable under Sections 147, 148, 149, 323, 504, 307 of the Indian Penal Code and Section 27 of the Arms Act.

The contention on behalf of the petitioners is that there is case and counter case between the parties and five days prior to institution of the present case, the petitioner no. 4 lodged Behea P.S. Case No. 253 of 2014 against the informant of the present case and his associates and as a matter of fact, on the



alleged date of occurrence, it was prosecution party who assaulted the aforesaid petitioner no. 4 and others and the present case has been lodged in retaliation to above stated Behea P.S. Case No. 253 of 2014. It is further contended by him that no case under Section 307 of the Indian Penal Code is made out because as per the prosecution case itself, the firing hit on the wall and then caused injury to injured of this case. It is further contended by him that except petitioner no. 3, no one was present on the place of occurrence at the time of alleged occurrence. It is also pointed out by him that injured of this case has sustained simple injury which is evident from perusal of Annexure-3 to this petition.

It would appear from perusal of Annexure-1, the F.I.R. of the present case, that the ferdbeyan of the informant was recorded on 31.10.2014 at 06:00 AM in hospital whereas alleged occurrence took place on 30.10.2014 at about 02:00 PM and, therefore, it cannot be said that the informant lodged the present case after five days of the alleged occurrence. So far as the allegation of firing is concerned, it is specifically stated that at the instigation of petitioner no. 2, petitioner no. 3 opened fire causing firearm injury to the informant and there is nothing in the ferdbeyan of the informant that firing hit on the wall and then caused injury to him. Furthermore, there is allegation that all the

petitioners participated in assaulting the informant by fists and slaps and, therefore, it is apparent from the aforesaid facts that all the petitioners having shared common object committed the alleged occurrence.

Considering the aforesaid facts and circumstances as well as submissions of the parties, I am not inclined to grant the privilege of anticipatory bail to the petitioners and accordingly, their prayer for anticipatory bail in connection with Behea P.S. Case No. 260 of 2014 pending in the court of Chief Judicial Magistrate, Bhojpur at Ara stands rejected.

(Hemant Kumar Srivastava, J)

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