

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.46630 of 2015

Arising Out of PS.Case No. -139 Year- 2015 Thana -RAJGIR District- NALANDA
(BIHARSHARIFF)

Dr. Anil @ Anil Kumar Son of Late Sukhdeo Mahto Resident of Mohalla -
Bangali Pada, Rajgir, P.S. Rajgir, Distt. - Nalanda

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.396 of 2016

Arising Out of PS.Case No. -139 Year- 2015 Thana -RAJGIR District- NALANDA
(BIHARSHARIFF)

Upendra Kumar Bibhuti S/o - Late Ram Briksh Saw Tulsi Gali, P.S. -
Rajgir, Dist. Nalanda.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.46630 of 2015)

For the Petitioner/s : Mr. A.K. Thakur
Mr. Dr. Anand Kumar
For the Opposite Party/s : Mr. A.M.P.Mehta(App)

(In Cr.Misc. No.396 of 2016)

For the Petitioner/s : Mr. A.K. Thakur,
Mr. Dr. Anand Kumar
For the informant Mr. Rajesh Kumar
For the Opposite Party/s : Mr. C.Jawahar(App)

CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA
ORAL ORDER

4 13-01-2016 Both the criminal miscellaneous applications are of the

same occurrence and, as such, have been heard together and are

being disposed of by this common order.

Heard learned counsel for the petitioners and learned A.P.P. representing the State.

Petitioners seek bail in connection with Rajgir P.S. Case No. 139 of 2015 registered for the offences punishable under Sections 147, 148, 149 and 302 of the Indian Penal Code and Section 27 of the Arms Act.

Allegedly, Awadhesh Kumar Singh being Chairman of Mallamash Mela Bachao Samittee was shot dead in the night at about 9.45 P.M. on 26.06.2015 by the contractor of Mela and others and they have been seen by the villagers namely, Gappu Singh, Sanjay singh, Bhagwan Singh and Binay singh in the light of Tavera vehicle.

Submission is of false implication and that due to village politics, the petitioners have been implicated, without any fault they are suffering in custody, against them, vigilance case has been registered due to non-deposit of fair tax but the fair tax has already been deposited. There is no eye witness of the occurrence and the witnesses, who have come to say that they have seen the petitioners and other co-accused fleeing away, are chance witnesses. The statement of those witnesses have also been recorded under Section 164 Cr.P.C. and Gappu Singh in para-8 has specifically stated that they reached there after the murder and

they saw miscreants fleeing away and further that who shot, they have not seen. In this case other co-accused have been given interim protection at the time of hearing of their pre-arrest bail and, as such, the petitioners deserve sympathetic consideration.

The learned A.P.P. duly assisted by the learned counsel for the informant opposes the prayer of bail by submitting that witnesses, who have seen the petitioners committing the crime, are now causing threats and they have stated in this regard in their statement recorded under Section 164 Cr.P.C. and there is apparent motive for murder of the deceased as he was opposing the illegal act and contract given to the petitioners at lesser price.

In the facts and circumstances stated above, considering that the witness Gappu Singh in his statement recorded under Section 164 Cr.P.C. in para 8 has stated that they reached there after the murder and saw the miscreants fleeing away and further who shot, they have not seen and, as such, the petitioners above named are directed to be released on bail on execution of bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the Learned C.J.M., Nalanda, Biharshariff arising out of Rajgir P.S. Case No. 139 of 2015 subject to the conditions that one of the bailors must be near relative and another having sufficient

immovable property within the territorial jurisdiction of the court concerned and the petitioners shall remain present on each and every date during trial and the default on two consecutive dates on their part without any reason shall disentitle the petitioners from privilege of bail.

(Jitendra Mohan Sharma, J)

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