

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33217 of 2016

Arising Out of PS.Case No. -48 Year- 2016 Thana -SAHPUR District- BHOJPUR

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1. Babloo Thakur @ Bablu Thakur @ Binay Thakur Son of Sri Prashuram Thakur @ Atama Thakur
 2. Binod Thakur son of Late Ram Iqbal Thakur Both are resident of village-Nauranga, Police Station Bouria, in the District of Ballia, in the State of Uttar Pradesh,

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 26-09-2016 Heard learned counsel for the petitioners, the State and the informant.

The petitioners seek bail in Shahpur P.S. Case no. 48 of 2016 instituted for the offence under Sections 147, 148, 149, 341, 324, 307 and 302 of the Indian Penal code and Section 27 of the Arms Act.

The prosecution case, in short, is that on the alleged date and time of occurrence the informant along with his uncle Bisheshwar Ojha (deceased) and one another person boarded in his Safari vehicle after attending marriage ceremony of nephew of Chandeshwar Upadhyay and Scorpio of Kamal Deo Ojha was also behind their vehicle. All of a sudden, F.I.R. named accused persons along with 3-4 unknown persons having armed with rifle and gun surrounded the vehicle. Haresh Mishra and Brajesh Mishra started indiscriminate firing from their carbine on Bisheshwar Ojha, his driver Rakesh Ojha and Kamaldeo Ojha. All three persons received fire arm injuries and they were taken to hospital where Bisheshwar Ojha was declared dead and other two

were referred for better treatment

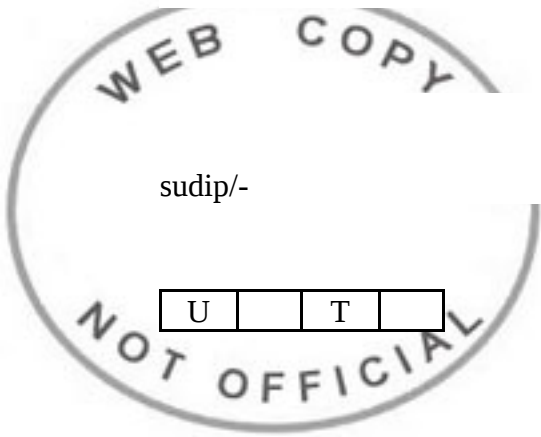
It has been submitted on behalf of the petitioners that petitioners are in custody since 7.5.2016 and Chargesheet has been submitted in the present case. There is no allegation of tampering of witnesses alleged against petitioners. Petitioners are not named in the F.I.R. Petitioners have been made accused in course of investigation. Petitioners are said to have talked to the co-accused on mobile on the alleged date of occurrence. Except for the confessional statement of the petitioners recorded under Section 161 of the Code of Criminal Procedure, there is no substantive evidence to suggest their implication in the present case nor there is any circumstantial evidence to suggest their involvement in the alleged crime. Other co-accused similarly situated has been granted bail vide Cr. Misc. no. 28045 of 2016 by a coordinate Bench of this Court.

On behalf of the State and informant, it is submitted that name of the petitioners have come in course of investigation and they have actively participated in the alleged occurrence. There is confession of the petitioners before the police. After 42 days of the investigation, three witnesses have stated that petitioners were also there at the place of occurrence and resorted to firing.

It is submitted by petitioners that the said submission does not find force as informant himself is an eye witness, but he has not named petitioners with such allegation.

Considering the aforesaid facts and circumstances and since other co-accused with a similar allegation has been granted bail, it is directed that petitioners above named be released on bail on furnishing bail bond of Rs.10,000/-(Ten thousand) each with two sureties of the like amount each to the satisfaction of learned

Addl. Chief Judicial Magistrate-XIV, Bhojpur at Ara in
connection with Shahpur P.S. Case no. 48 of 2016.



(Sudhir Singh, J)

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