

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15724 of 2016

Arising Out of PS.Case No. -34 Year- 2015 Thana -GANGABRIDGE District-
VAISHALI(HAJIPUR)

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1. Kailash Rai, Son of Late Yugeshwar Rai
2. Bachha Rai, Son of Late Jagdeo Rai. Both are residents of village-Diwan
Tok, P.S. Ganga Bridge, District Vaishali

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mrs. Rina Sinha, Advocate
For the Informant : Mrs. Shruti Sinha, Advocate
For the Opposite Party/s : Mr. Indu Bala Pandey, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 25-05-2016 Heard learned counsel for the petitioners, learned
counsel for the informant and learned A.P.P. for the State.

Petitioners are languishing in custody since 05.01.2016
in connection with Ganga Bridge P.S. Case No. 34 of 2015 for the
offences alleged under Sections 302 and 404/34 of the Indian
Penal Code and Section 27(3) of the Arms Act.

The prosecution case, as alleged, in the First
Information Report is that co-accused Manoj Rai, Bipin Rai and
Ashok Rai pointed gun on the informant's son Pankaj Rai and
petitioners Kailash Rai and Bachha Rai pointed Hasua on Pankaj
Rai and when the informant raised hulla and tried to save his son,
they dashed the informant in a ditch and co-accused Manoj Rai,



Bipin Rai and Ashok Rai made firing indiscriminately on his son Pankaj Rai, on which, Pankaj Rai tried himself to save but he fell down and thereafter petitioners Kailash Rai and Bachha Rai started cutting Pankaj Rai with Hasua. On hulla, when the nearby people assembled the accused persons fled away and they also took the mobile and motorcycle of the informant's son. The informant's son died on the spot.

It has been submitted by the learned counsel for the petitioners that they are innocent and the allegation against the petitioners is of inflicting injury by Hasua. He further submits that it was because of previous enmity as the father and brother of the victim, who has deposed against the informant in Ganga Bridge P.S. Case No. 78 of 2013 that they have been falsely implicated. He further submits that the petitioners have no criminal antecedent as is evident from paragraph 3 of this application.

However, learned counsel for the informant submits that there were firing by the other accused and cutting by Hasua by the petitioners, which resulted in the death of the son of the informant, which is evident from the post mortem report. It is further submitted that the offence is of a serious nature and the informant is himself an eye witness to the alleged occurrence.

Learned A.P.P. for the State submits that the petitioners

are named in the First Information Report, hence, opposes the prayer for bail.

Be that as it may, since the petitioner no. 1, namely, Kailash Rai has been stated to be 70 years of age, let the petitioner no. 1, namely, Kailash Rai, be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Vaishali, Hajipur in connection with Ganga Bridge P.S. Case No. 34 of 2015.

However, since the allegation is serious, I am not inclined to grant the privilege of bail at this stage to the petitioner no. 2, namely, Bachha Rai. Hence, his prayer for bail is rejected.

(Nilu Agrawal, J)

Vats/-

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