

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9485 of 2016

Arising Out of PS.Case No. -62 Year- 2001 Thana -MOHIUDDIN NAGAR District-
SAMASTIPUR

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1. Shesh Kumar Choudhary Son of Late Basudeo Choudhary resident of
Village - Laguniya, Police Station - Muffasil in the district of Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raj Kumar

For the Opposite Party/s : Mr. Tapeswar Sharma(App)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 17-05-2016 Heard learned counsel for the petitioner and learned

APP for the State.

The petitioner apprehends his arrest in connection
with Mohiuddinnagar P. S. Case No. 62 of 2001 for offences
alleged under Section 324, 307, 302 of the Indian Penal Code
and Section 27 of the Arms Act.

The prosecution case as lodged by the informant is
that at about 12:00 O'clock, staff of Land Development Bank
came for recovery of loan from Jitendra Choudhary and caught
hold him and was taking away by Jeep, in the meantime hot talk
was going on between them. Thereafter, Jitendra Choudhary
jumped from the Jeep and started fleeing away then staff of
Bank namely Vishwanath Singh (field officer) had given order



to shoot Jitendra Choudhary then police personnel fired three rounds continuously out of which two bullets hit his son namely Lakhindra Paswan, who died on spot and another bullet hit her neighbour namely Umesh Paswan, who was seriously injured. Informant further alleged that Bank staff Vishwanath Singh (field officer), Kishori Singh (field officer) and Ram Babu (peon) and four police personnel killed her son and fled away. She further stated that she has no concern with any type of loan from the Bank.

It has been submitted by the learned counsel for the petitioner that the Bank Officers came for realization of loan along with home guards and when they caught hold of one Jitendra Kumar, in the course of heated arguments, a mob of 60-70 people assembled. The villagers and the Home Guards fired on both sides, as a result of which, the son of the informant and one Lakhindra Paswan also died. It has further been submitted that an F.I.R. has been lodged by one of the Home Guards narrating the entire incident. He further submits that the petitioner was on official duty and there was a mob attack and firing on both sides and the allegation of gun shot in a mob attack is not attributable to the petitioner. Only on the basis of suspicion, the name of the petitioner surfaced and he

has not been identified by any of the witnesses.

However, the learned APP for the State submits that during investigation, in the supervision note, the police have found the gun shot injury on the deceased Lakhindra Paswan to be attributable to the petitioner, hence, opposes the prayer of bail.

Be that as it may, since the petitioner is a Home Guard and was on official duty on the alleged date of occurrence and has been implicated only on the basis of suspicion not named in the F.I.R., in the facts and circumstances of the case, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of eight weeks from today, 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 the learned Additional Chief Judicial Magistrate, IV, Samastipur in connection with Mohiuddinnagar P. S. Case No. 62 of 2001, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Nilu Agrawal, J)

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