

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21692 of 2016

Arising Out of PS.Case No. -81 Year- 2016 Thana -SAHPUR District- BHOJPUR

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1. Mukesh Chaudhary @ Mukesh Rai
 2. Suresh Chaudhary @ Suresh Rai Both sons of Upendra Chaudhary, resident of Village- Eataur, P.S.- Charkokhari, Dist- Bhojpur.
 3. Manoj Tiwary, Son of Sheo Shambhu Tiwary
 4. Jai Shambhu Tiwary
 5. Sheo Shambhu Tiwary Sons of Late Raghubir Tiwary All residents of Village- Barishwan, P.S.- Shahpur, District- Bhojpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

2 20-05-2016 Heard the counsel for the petitioners.

No one has appeared on behalf of the State.

Five petitioners herein are named accused in Shahpur P.S.
Case No. 81 of 2016 registered under sections 379,384 and 506
IPC read with section 27 of the Arms Act.

The prosecution case, in brief, is that the co-accused, Bimlesh Tiwari was illegally selling liquor to another co-accused which was creating nuisance in the locality. When the informant protested, it is alleged that a fire was shot on him by the co-accused Ravindra Rai. Petitioner no.3 is also said to have fired in the air to create terror. This was done when the petitioner nos. 4

and 5 exhorted the other accused to fire and kill the informant. On the next day when the informant was going along with his brother to lodge the case it is alleged that the accused persons including petitioner nos. 3,4 and 5 surrounded/intercepted them and demanded **Rangdari** and on non-payment thereof the brother of the informant was assaulted with Lathi and Danda.

The contention of the petitioners is that there is general and omnibus allegation against the accused persons.

Indisputably, the fire shot by petitioner no.3 did not hit anyone. There is a counter version also of the case lodged by the wife of the co accused Gopal Sah. The petitioners have no criminal antecedents. Looking to the allegation and in the manner the offence was committed and the presence of petitioner nos. 3,4 and 5 at the scene of occurrence, one of whom armed with pistol and also fired, gave adequate support to the main accused of the case to commit the offence.

Considering the nature of the allegations made in the FIR, I am not inclined to extend the privilege of anticipatory bail to petitioner nos. 3,4 and 5. Their prayer for bail is rejected.

Petitioner nos. 1 and 2 appears to be only the persons constituting the crowd which assembled at the first scene of occurrence. They are not cited as the accused when the informant

and his brother were intercepted by the accused persons on the following day. They do not have any criminal antecedents. In the event of arrest/surrender within four weeks from today, petitioner 1 and 2 namely, Mukesh Choudhary @ Mukesh Rai and Sukesh Choudhary @ Sukesh Rai shall be released on bail on furnishing bail bond of Rs. 10,000/- each with two sureties of the like amount each to the satisfaction CJM, Bhojpur at Arrah in Shahpur P.S. Case No. 81 of 2016 on condition that one of the bailors of each of the petitioners shall be their own/close family members. They shall appear on each date fixed at the trial. Failure in appearance on two consecutive days shall result in cancellation of their bail bonds.

(Kishore Kumar Mandal, J)

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