

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37405 of 2016

Arising Out of PS.Case No. -197 Year- 2016 Thana -TURKAULIYA District-
EASTCHAMPARAN(MOTIHARI)

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1. Mukesh Mishra, Son of Dharendra Mishra @ Dhurendra Mishra @
Birendra Mishra
2. Pappu Dubey, S/o Rajendra Dubey @ Raktu Dubey
3. Raju Dubey, S/o Rajendra Dubey @ Raktu Dubey
All are Residents of Village- Madhubani, Dubey Tola, P.S.- Sangrampur,
District- East Champaran.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Sunil Kumar No.III, Advocate
Mr. Rajesh Kumar, Advocate
For the Opposite Party : Smt. Madhuri Lata(APP)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 16-09-2016 Heard learned counsel for the petitioners and learned
APP for the State.

Petitioners apprehend arrest in connection with
Turkaulia P.S. Case No. 197 of 2016 for offences alleged under
Sections 147, 148, 149, 341, 323, 324, 307, 504, 506 of the Indian
Penal Code and 27 of the Arms Act.

The prosecution case is that some persons were
measuring the land of informant situated in village Brita. The
informant and his brother had gone to the said field and saw that
co-accused persons and these petitioners were measuring the field
by Amin. The informant raised objection, then petitioner No.1



Mukesh Mishra threatened to shoot. The informant raised noise, on which nearby persons reached there, then accused persons fled away. Again the accused persons about 35-40 in numbers holding weapons in their hands came there. Petitioner Nos. 2 and 3 Pappu Dubey and Raju Dubey, ordered to kill them. On this, accused Ashutosh Upadhyay started opening firing from pistol upon the informant and his brother, due to fear the informant and his brother fled away from there.

It has been submitted by the learned counsel for the petitioners that they are innocent and have been falsely implicated due to land dispute. He submits that one of the co-accused had lodged an FIR against the informant's side bearing Turkaulia Case No. 199 of 2016 as the land in question was theirs and they had got the land from one Shilpa Kuar and the dispute was with regard to the said land. He submits that no injury has been caused on the informant's side as such Section 307 of Indian Penal Code is not applicable and that the petitioners have no criminal history as is evident from para-3 of this application.

However, learned APP 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 there was land dispute

between the parties and there is case and counter case between the parties and that there is no injury found on the informant side, let petitioners, above named, in the event of their arrest or surrender before the court below within a period of eight weeks from today, 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 Chief Judicial Magistrate, Motihari, East Champaran, in connection with Turkaulia P.S. Case No. 197 of 2016, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(**Nilu Agrawal, J.**)

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