

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40788 of 2015

Arising Out of PS.Case No. -33 Year- 2009 Thana -UDWANTNAGAR District- BHOJPUR

- =====
1. Upendra Choudhary Son of Late Janeshwar Choudhary
 2. Mritunjay Choudhary @ Karia Choudhary @ Mritunjay Kumar Chaudhary Son of Upendra Choudhary Both residents of Village - Belaur, P.S. Udwant Nagar, District - Bhojpur at Ara.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amrendra Narayan Rai, Advocate

For the Opposite Party/s : Mr. Shantanu Kumar (APP)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

5 03-03-2016 Heard learned counsel for the petitioners and learned

A. P.P. for the State.

Petitioners apprehend their arrest in connection with

Udwantnagar P.S. Case No. 33 of 2009 registered for offence

punishable under Sections 302/34 of the Indian Penal Code and

Section 27 of the Arms Act.

The prosecution case, in brief, is that on 20.02.2009 at

7:00 P.M., the informant along with his son had gone to bring

Mango wood. When informant and his son reached on Ara- Sahar

main road, son of the informant went for natural call. In the

meantime, three named and one unknown accused persons came

there. Seeing the accused persons, informant asked his son to flee

away, but while fleeing away, accused persons caught his son and overpowered the informant and his nephew. Thereafter, accused Upendra Choudhary shot at the son of the informant, as a result of which he died. The informant informed the police about the occurrence. The occurrence is said to have taken place due to enmity between the parties.

It has been submitted by the counsel for the petitioners that the petitioners are innocent and have falsely been implicated in the present case. Police after investigation did not sent them up to face trial, but the petition filed by the prosecution under Section 319 of the Cr.P.C. was allowed by the learned Court below and, hence, the petitioners are apprehending their arrest. It has further been submitted that the deceased, Putul Choudhary was a veteran criminal and he has been killed by other persons due to enmity and petitioners have been falsely implicated in this case.

However, learned A.P.P. for the State submits that petitioners are named in the First Information Report. It has further been submitted that petitioner no.1 is the main accused and petitioner no.2 is said to be his accomplice. It has further been submitted that the father of the deceased is the eye-witness of the occurrence and, hence, opposes the prayer for bail. Learned A.P.P. further submits that petitioner no.1 has criminal antecedent, as he

is also accused in three more cases.

Having considered the facts and circumstances of the case, I am not inclined to grant the privilege of anticipatory bail to petitioner no.1, Upendra Choudhary. His prayer for anticipatory bail is, accordingly, rejected. However, he is at liberty to surrender within a period of six weeks from today and apply for regular bail before the learned Court below, which will be heard and disposed of in accordance with law preferably on the same day.

So far petitioner no.2, Mritunjay Choudhary @ Karia Choudhary @ Mritunjay Kumar Chaudhary is concerned, he, 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 bond of Rs. 10,000/- (Ten thousand only) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhojpur, Ara in connection with Udwanthnagar P.S. Case No. 33 of 2009, subject to the conditions as laid down under Section 438 (2) of the Cr. P.C.

(Nilu Agrawal, J.)

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