

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6324 of 2017

Arising Out of PS.Case No. -231 Year- 2016 Thana -KUSHESHWARSTHAN District-
DARBHANGA

- =====
1. Rasik Lal Yadav, son of Late Mishri Yadav @ Mishri Lal Yadav, resident of village- Kewatgama, P.S.- Kusheshwar Asthan, District- Darbhanga
 2. Tirpit Yadav @ Tirpit Narayan Yadav @ Tripti Narayan Yadav, son of Late Satya Narayan Yadav @ Sobi Yaadav @ Soti Yadav, resident of Village- Akonama, P.S. Kusheshwar Asthan, District- Darbhanga
- Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Manish Kumar No 13, Advocate
For the Opposite Party : Smt. Reena Sinha (APP)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

9 29-06-2017 Heard learned counsel for the petitioners, learned counsel for the informant and learned counsel representing the State.

The petitioners seek bail in connection with Kusheshwar Asthan P.S. Case No. 231 of 2016 (G.R. 880 of 2016), registered for the offence punishable under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

As per First Information Report according to the statement of Arun Yadav, Sikander Yadav and Binod Yadav are assailants whereas the petitioner and others were present at that time. During investigation, in para 181 of the case diary, the statement of Indal Yadav and Ramchandra Yadav has been



recorded which is on separate sheet wherein at first Sikarndar Yadav opened firing which did not hit and thereafter Prabeen Yadav fired which hit to the deceased and the petitioner were present there and they have caught and assaulted the deceased.

Submission is of false implication and that petitioners are not assailants, due to land dispute they have been implicated, no doubt there is old enmity but on that ground false implication cannot be ruled out. The petitioners without any fault are suffering in custody. The petitioner no.1 is in custody since 07.12.2016 whereas petitioner no.2 is in custody since 29.11.2016 and, as such, the petitioners deserve sympathetic consideration.

The learned A.P.P. duly assisted by the learned counsel for the informant seriously opposes the prayer of bail by submitting that the petitioners are terror and if they will bailed out, they will tamper the prosecution evidence and no witness will dare to depose in this case. The petitioners have suppressed their criminal antecedent also and they have disclosed after filing counter affidavit. Petitioners were also present at the time of crime and, as such, they do not deserve bail.

In the facts and circumstances as stated above, considering that the petitioner are not the assailants and, as such, the petitioners are directed to be released on bail on execution of



bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction learned S.D.J.M., Biraul at Benipur, in connection with Kusheshwar Asthan P.S. Case No. 231 of 2016 (G.R. No. 880 of 2016) , subject to the conditions that one of the bailors must be a near relative and another having sufficient immovable property within the territorial jurisdiction of the Court concerned and the petitioners shall remain present on each and every date during trial and the default on two consecutive dates on their part without any reason shall disentitle the petitioners from privilege of bail.

(Jitendra Mohan Sharma, J)

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