

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48974 of 2016

Arising Out of PS.Case No. -73 Year- 2016 Thana -BIHPUR District- BHAGALPUR

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1. Md. Jivro @ Mr. Jibra, S/O Md. Samsudeen, Village – Pachgachhia, P.S. – Gopalpur, District – Bhagalpur, Bihar.
 2. Nur Ahmad @ Noor Mohammad, S/O Nursiraj, Village – Pachgachhia, P.S. – Gopalpur, District – Bhagalpur, Bihar.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Lal Babu Singh, Advocate.

For the Opposite Party : Mr. Sanjay Kumar Pandey, APP.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

6 03-04-2017 Learned counsel for the petitioners is permitted to make necessary corrections in the prayer portion of the bail petition in the name of the court as now the case is pending in the court of 2nd Additional Sessions Judge, Naugachia and in the Sessions Trial No. 485 of 2016.

Heard both sides.

The petitioners seek bail in Bihpur (Jhandapur) P.S. Case No. 73 of 2016, corresponding to Sessions Trial No. Sessions Trial No. 485 of 2016 registered for the offences punishable under Sections 302, 120B/34 and under Section 27 of the Arms Act.

The informant, the brother of the deceased, alleged that while his brother, advocate of Naugachia, Civil Court, was returning on his car bearing registration number BR-10W 1555, a



Xylo car bearing registration number JH-10AM 2743 dashed the vehicle and the accused persons shot his brother who died on the spot.

Learned counsel for the petitioners submits that the petitioners are not named in the FIR. During course of investigation the witnesses namely Sanjit Kumar Roy, Mritunjay Kumar Choudhary and Pramod Kumar Roy disclosed the name of one Chandan Kumar and alleged that he was accompanying with other accused persons who fired and killed the brother of the informant on the spot. It is further submitted that during course of investigation, in paragraph 106 of the case diary Rishikesh Kumar Singh @ Pathar Singh @ Chhotu and in paragraph 132 of the case diary Raj Kishore Rai @ Mothal Rai confessed their guilt and disclosed the name of the petitioners and stated that the petitioners worked as liner in the murder of the advocate. Thereafter, the petitioners are said to have confessed their guilt in paragraph 141 and 244 of the case diary. Learned counsel for the petitioners further submits that Chandan Kumar was identified by two witnesses, but the petitioners were not identified by any of the witnesses. Save and except the confessional statement of co-accused and the confession of the petitioners before the police there is no material to show the involvement of the petitioners.



The prayer for bail of Rishav Kumar was rejected on the ground that his identity card and other materials were recovered from the Xylo vehicle which was used in killing of the advocate. Other accused persons Bikash Kumar @ Bikash Kuwar, Dilip Singh and Subham have already been enlarged on bail.

Learned APP did not dispute this fact.

Considering the facts aforesaid and the fact that the name of the petitioners figured in the case in the confessional statement of co-accused and save and except confession of the petitioners that too before the police, there is no other material on record to show the involvement of the petitioners, the petitioners above named are directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the 2nd Additional Sessions Judge, Naugachia, Bhagalpur in Bihpur (Jhandapur) P.S. Case No. 73 of 2016, corresponding to Sessions Trial No. Sessions Trial No. 485 of 2016.

(Prabhat Kumar Jha, J.)

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