

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38499 of 2017

Arising Out of PS.Case No. -287 Year- 2017 Thana -SIWAN CITY District- SIWAN

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Nasruddin, Son of Late Md. Nazib Mian @ late Md. Muzib Mian, Resident of Sheikh Mohalla, P.S. Siwan Town, District Siwan.

.... Petitioner

Versus

1. The State of Bihar
 2. Sarfullah Ansari, Son of Akhtar Ansari, Resident of Village Deoria, P.S. Maharajganj, District Siwan
 3. Md. Pappu, Son of Rahmat Mian
 4. Md. Zamil, Son of Manjoor Mian
 5. Md. Habib, Son of Mahboob
 6. Md. Rajan, Son of Noori Mian
 7. Gappu Quaraisi, Son of Sagir Quaraisi
 8. Wasi Ahmad, Son of late Md. Raza
 9. Mahfooz Quaraisi, Son of Idrish Quaraisi
 10. Rizwan Quaraisi, Son of Idrish Quaraisi
 11. Irfan Quaraisi, Son of Idrish Quaraisi
- Opposite Party Nos.3 to 11 are residents of Sheikh Mohalla, P.S. Siwan Town, District Siwan

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Pandey

For the Opposite Party/s : Mr. Sri Anil Kumar Singh 1

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

2 18-08-2017 The petitioner has filed this application for cancellation of bail granted to opposite party nos.2 to 11 by order dated 01.08.2017 in connection with Siwan Town P.S. Case No.287 of 2017 registered under Sections 147, 148, 149, 341, 323, 504 and 302/120B of the Indian Penal Code as well as Section 27 of the Arms Act.

Learned counsel for the petitioner submits that opposite parties no.2 to 11 were members of unlawful assembly.



The were participating in the victory procession after result of the election of the Nagar Parishad, Siwan and they surrounded the deceased and killed him by firearm and some of the opposite parties have also criminal antecedent despite that bail was granted to these accused persons; whereas learned APP for the State submits that the impugned order shows that only one firearm injury was found on the person of the deceased. Another accused Intkhab fired at him, the specific allegation of firing is only against Intkhab on instigation of one Chini Mian and these two accused have not been granted bail.

Having considered the rival submissions and on perusal of the impugned order, it appears that bail was granted considering no specific overt act alleged against the opposite parties. Only one firearm injury was found on the person of the deceased that is attributed to one Intkhab who was not petitioner before the court below. It is settled principle of law that parameters for granting bail and for cancellation of bail are on different footing. Once the accused is granted bail without any suppression of material fact before the court, considering the merit of the case and specially when there is no any even allegation of tampering of evidence or threatening witnesses or interfering with the interest of justice the bail granted on merit should not be



cancelled. In the present case there is no such ground so finding no merit, the prayer of cancellation of bail granted to opposite parties no.2 to 11 is rejected.

This application is dismissed.

(Arun Kumar, J.)

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