

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.858 of 2017

Arising Out of PS.Case No. -350 Year- 2010 Thana -SITAMARHI District- SITAMARHI

- =====
1. Havaladar Pushpraj Darji Son of Babu Ram Darji, Resident of Village-Dorda, B.M.P. Campus , Thana Dorda, District-Ranchi (Jharkhand) at Present No. 1 Posted as Sepoy in B.M.P. Botalian No. 1, Patna.
 2. Saryug Tamang, S/o Sher Bahadur Tamang R/v Dorda, BMP Campus, Dorda, Ranchi at present posted as Sepoy in BMP Batalian no. 1, Patna
- Petitioner/s

Versus

1. The State of Bihar Opposite Party/s
- =====

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Varma
For the Opposite Party/s : Mr. Sri Kanhaiya Kishore

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

5 01-03-2017 Heard learned counsel for the petitioner, and the learned counsel representing the State.

The petitioners apprehend their arrest in connection with Sitamarhi P.S Case No. 350 of 2010 registered for the offence punishable under Section 304 of the Indian Penal Code.

Allegedly, both the petitioners opened five rounds of firing each without the order of any police officer resulting Seema Devi, the daughter of Bhola Sah @ Surendra Kumar Gupta died, who had opened the door and further Parwati Devi who was behind Seema Devi also sustained fire arm injury resulting she died later on.

Submission is of false implication and that the Sitamarhi P.S. Case No. 408 of 2005 was investigated and after investigation final form was submitted but the learned C.J.M. after differing with the opinion of investigating officer, took



cognizance. The father of the deceased has filed Complaint Case No. 854 of 2005 in the Court of CJM, Sitamarhi wherein the petitioners are not named as accused. Parwati Devi, who was shown as deceased in the F.I.R., has been made witness in that complaint case. Parwati Devi died natural death but in the F.I.R. the allegations have been made against the petitioners and, as such, the petitioners deserve sympathetic consideration. During investigation also no witness has stated that petitioners have opened fire.

Learned A.P.P. opposes the prayer of bail by submitting that informant in his further statement has supported the allegations and the F.I.R. has been lodged after making proper enquiry. The petitioners without taking any order from higher authority, have opened fire causing the death of Seema Devi, daughter of Bhola Sah at the spot.

In the facts and circumstances stated above, considering the allegations attributed against the petitioners, I am not inclined to grant privilege of pre-arrest to them and accordingly, their such prayer stands rejected in connection with Sitamarhi P.S. Case No. 350 of 2010 pending in the Court of learned C.J.M., Sitamarhi.

(Jitendra Mohan Sharma, J)

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