

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35053 of 2017

Arising Out of PS.Case No. -30 Year- 2017 Thana -TARAIYA District- SARAN

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1. Bachchu Prasad,
 2. Lal Babu Prasad, Both are sons of Hari Narayan Prasad, resident of Village- Madhopur Chhota, P.S.- Taraiya, District- Saran.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Yogendra Prasad, Advocate

For the Opposite Party/s : Mr. Dr. Kumar Uday Pratap, APP

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 31-08-2017 Heard learned counsel for the petitioners, learned counsel for the informant and the learned A.P.P. for the State.

Petitioners are languishing in judicial custody since 21.02.2017 in connection with Taraiya P.S. Case No. 30 of 2017 registered for the offence punishable under Section 302 and other allied sections of the Indian Penal Code and Sections 25(1-b)a, 26,27 and 35 of the Arms Act.

The prosecution case, as lodged by the informant, is that while he was talking on the road beside his house on mobile, he heard the sound of gun shot and when he arrived, he saw that his grandfather and grandmother,



who were sleeping in the Dalan had been killed by fire shot and three persons, Arjun Prasad Binod Prasad and Saroj Prasad were descending from Dalan. It is alleged that the petitioners along with Ramjee Prasad were standing there. Co-accused Binod Prasad also hurled bomb on the informant, but he did not sustain serious injuries. The cause of dispute is a case going on between the parties since 5-7 years for 11 kathas of land and Title Appeal No. 23 of 2016 is pending between the parties.

It is submitted by the learned counsel for the petitioners that they are innocent, bear no criminal history and have been falsely implicated in the aforesaid case. He submits that there is no overt act alleged against the petitioners, as they were members of the mob and standing at the place of occurrence. He submits that just because the petitioners and other accused persons are agnates, they have been dragged in the aforesaid case. He submits that there is no direct allegation against the petitioners and that charge-sheet has already been submitted and there is no allegation of tampering with the prosecution witnesses by the petitioners.



However, learned counsel for the informant and the learned A.P.P. for the State oppose the prayer for bail stating therein that the petitioners were part of the conspiracy and it is a case of dual murder of the informant's grandparents and even the property papers have been taken away by the petitioners and other co-accused.

Considering the facts and circumstances and the materials on record, since there is no direction allegation of any overt act against the petitioners, let the petitioners, named above, be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (Rs. Ten thousand only) each with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-IX, Saran at Chapra in connection with Taraiya P.S. Case No. 30 of 2017, subject to the condition that one of the bailors would be a close relative of the petitioners having sufficient immovable property within the jurisdiction of the concerned police station/ court, who will file an affidavit stating his relationship with the petitioners and that petitioners will appear before the learned Court below on each and every date and failure to appear on two consecutive dates without assigning any reason will entail cancellation of their bail



bonds.

It is also made clear that petitioners will not induce or tamper with the prosecution witnesses and if same is brought to light, prosecution will be at liberty to move the learned Court below for cancellation of their bail bonds.

(Nilu Agrawal, J.)

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