

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36373 of 2017

Arising Out of PS.Case No. -183 Year- 2016 Thana -SIWAN MUFFASIL District- SIWAN

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1. Amod Yadav @ Kamod Yadav @ Amod Kumar, son of Jawahar Yadav alias Jawahar Prasad Yadav, Resident of Village- Orma Nawka Tola, P.S.- Siwan Muffasil, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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With
Criminal Miscellaneous No.37273 of 2017

Arising Out of PS.Case No. -183 Year- 2016 Thana -SIWAN MUFFASIL District- SIWAN

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1. Jawahar Yadav @ Jawahar Prasad Yadav, Son of Late Shankar Yadav, Resident of Village- Orma Nawka Tola, P.S.- Siwan Muffasil (Mahadeva OP), District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the petitioners	:	Mr. S.N.P. Sinha, Sr. Advocate Ms. Rashmi Bharti, Advocate Ms. Anamika Sinha, Advocate
For the informant	:	Mr. Zeyaul Hoda, Advocate
For the State	:	Mr. Chandra Bhushan Prasad, APP Mr. Nityanand Tiwary, APP

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 25-08-2017 Heard learned counsel for the petitioners, learned
counsel for the informant and learned APP for the State.

Petitioners are languishing in judicial custody since
15.05.2017 in connection with Siwan Muffasil P.S. Case No.



183/2016 for offences punishable under Section 302 and other allied Sections of the Indian Penal Code and 27 of the Arms Act.

The prosecution case, as lodged by the informant, is that on 15.05.2016 at 8.30 A.M. he, his brother Shabir Hussain and Md. Hasnain were surrounded by accused Om Prakash Pandey, Brij Mohan Pandey, Shankar Yadav, Lalan Chaudhary and the petitioners. The accused persons were variously armed. Petitioners caught hold of Md. Husnain, while co-accused Om Prakash Pandey gave fire shot, as a result he fell down. Thereafter Brij Mohan Pandey hit Shabir Hussain on his head, then all the accused persons assaulted the injured Md. Shabir Hussain. The informant tried to save the victim then petitioner Jawahar Yadav hit him with axe and subsequently injured were taken to hospital where Md. Shabir Hussain succumbed to the injury.

It has been submitted by the learned counsel for the petitioners that they are innocent and had earlier been granted privilege of pre-arrest bail by a Coordinate Bench of this Court, which was later on challenged in the Apex Court wherein considering the nature of gravity of offence the petitioners were directed to surrender before the learned court below, hence, upon surrender the petitioners have prayed for privilege of bail. He



submits that there was a free fight between both parties and independent witness at paragraph 40 of the case diary has stated that both parties had assaulted each other and one person succumbed to the injuries. He further submits that charge-sheet has already been submitted, there is no allegation of tampering of the prosecution witnesses by the petitioner and that one of the co-accused has been granted privilege of pre-arrest bail by a Coordinate Bench of this Court in Cr. Misc. No. 35959 of 2016 on 08.09.2016.

However, learned counsel appearing for the informant submits that the deceased was brutally assaulted by all the accused persons and the informant and many persons of the informant's side received injuries and one succumbed to the injuries. He further submits that petitioner Jawahar Yadav does not have a clean antecedent, hence, opposes the prayer for bail.

Learned APP for the State also opposes the prayer for bail.

Considering the facts and circumstances and the materials on record, let petitioners, above named, be enlarged on bail on completion of six months in custody on furnishing bail bonds of Rs.10,000/-(Ten Thousand) each with two sureties of the



like amount each to the satisfaction of learned Chief Judicial Magistrate, Siwan, in connection with Siwan Muffasil P.S. Case No. 183 of 2016, 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 not induce or tamper with the witnesses and appear before the learned court below during trial as and when required and failure to appear on two consecutive dates without assigning any reason will entail cancellation of their bail bonds.

(Nilu Agrawal, J)

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