

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23901 of 2018

Arising Out of PS. Case No.-135 Year-2003 Thana- RAMGARHWA District- East
Champaran

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1. Suresh Thakur, S/o- Lal Babu Thakur,
 2. Dhodhai Thakur, S/o- Braj Kishor Thakur,
 3. Bachchu Thakur, S/o- Ramashish Thakur,
 4. Rajeshwar Dubey, S/o- Bhagwan Dubey,
 5. Birendra Dubey @ Virendra Dubey, S/o -Chandrika Dubey,
 6. Binay Thakur @ Vinay Thakur, S/o- Jitan Thakur,
 7. Manoj Kumar Dubey @ Manoj Dubey, S/o- Sushindra Dubey, All
R/o Vill.- Khugani, Tola Unchi Darha, P.S.- Ramgarhwa,
District- East Champaran at Motihari.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jai Shanker Prasad
For the Opposite Party/s : Mr. Gauri Shankar Gupta

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 30-04-2018 Heard learned counsels for the petitioners and State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 341, 324, 307 and 427/34 of the IPC and Section 27 of the Arms Act.

The prosecution case, as per the fardbeyan of Bikrama Bhagat, recorded by S.I., Ramgarhwa Police Station on 11.10.2003 is to the effect that on 11.10.2003 at 12 PM, all the accused persons variously armed, entered into the premises of Shiv Hanuman Temple and started uprooting the hutment of Musafir Das and cutting the flower plants. The public present in the temple premises, made protest, whereupon co-accused



Manoj Thakur and Santosh Thakur resorted to firing, as a result, Prayag Bhagat, Jhuman Bhagat and the informant received firearm injury. On arrival of the villagers on the spot, the accused persons escaped from the scene.

It is submitted by learned counsel for the petitioners that the occurrence took place in the background of land dispute between the management of the temple and the accused persons. The specific accusation of firing has been levelled against co-accused Manoj Thakur and Santosh Thakur and there is no specific accusation levelled against the petitioners. Though, the FIR was registered in the year 2003, but the final form was submitted in the year 2011, but the petitioners were not sent up for trial. However, differing with the final form, the cognizance has been taken and process has been issued against the petitioners also, but process has not been served upon them. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

It is further submitted that Manoj Thakur, against whom there is specific accusation of firing, has been granted privilege of anticipatory bail, by a Bench of this vide Cr. Misc. No. 21345 of 2008.

Learned APP submits that though, the petitioners were not



sent up for trial, but differing with the final form, cognizance has been taken and process has been issued against the petitioners also.

Considering the fact that there is no specific accusation against the petitioners to have made assault or armed with any gun and on conclusion of investigation, the petitioners have not been sent up for trial, coupled with statement made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent, let the above named petitioners be released on anticipatory bail in the event of arrest/surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of learned SDJM, Raxaul at Motihari in connection with Ramgarhwa P.S. Case No. 135 of 2003, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

learned Court below will be at liberty to cancel the bail bonds of the petitioners if they default for three consecutive occasions.

(Dinesh Kumar Singh, J)

Amrendra/-

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