

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43515 of 2018

Arising Out of PS. Case No.-1857 Year-2017 Thana- SASARAM NAGAR District- Rohtas

1. Rajkumar Choudhary,
2. Mahendra Choudhary, Both sons of Late Dasai Choudhary,
resident of Mohalla- Khidkighat, P.S.- Sasaram (Town), District-
Rohtas.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhinay Raj

For the Opposite Party/s : Mr. Prem Kumar Jha

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 19-07-2018 Heard learned counsels for the parties.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 302 and 386/34 of the IPC and Section 27 of the Arms Act.

The prosecution case, as per the written report of Sheikh Rafiq Ahmad dated 14.012.2017, submitted to SHO, Sasaram Town Police Station is to the effect that on 13.12.2017 at 08.30 P.M., the informant after closing his shop, returning back to his home along with his sons Mahtab Alam, Sohail Alam and Raquib Akhtar, but soon as he reached near Kila Mohalla turning, co-accused Jai Ram Choudhary, Nanhak Choudhary, Vikash Choudhary and Golu Choudhary, all sons of Petitioner No. 1, Rajkumar Choudhary and Petitioner Nos. 1 and 2



surrounded the informant and his sons, the accused persons, on the point of country made pistol, stopped the informant, whereupon, co-accused Nanhak Choudhary after catching hold of the collar of the shirt of the informant, demanded extortion and abused for not giving extortion money to the accused persons. Co-accused Nanhak Choudhary caught hold the hand of the informant's son, namely, Mahtab Alam and fired on the temporal region of his son, as a result, he fell down. Thereafter, all the accused persons resorted to firing and consequently, Jai Ram Choudhary received injury. The son of the informant, namely, Mahtab succumbed to the injury on the way to Varanasi for treatment.

It is submitted by learned counsel for the petitioners that for the occurrence of 13.12.2017 at 8.30 P.M., the FIR was registered on 14.12.2017 at 08.30 P.M. and at earlier point of time, the son of Petitioner No. 1, Rajkumar Choudhary, namely, Jai Ram Choudhary was killed by seven accused persons including Sheikh Rafiq Ahmad, informant of the present case as he received eight injuries at their hands, for which FIR was registered in as Sasaram Town P.S. Case No 1856 of 2017 for the offences punishable under Sections 302/34 of the IPC and Section 27 of the Arms Act on 13.12.2017 itself, hence, in order



to save his skin from the case lodged by Petitioner No. 1, the present case has been lodged. In fact, the son of the informant received injury in the firing resorted to by the informant's side because he received only one injury, whereas, the son of Petitioner No. 1 received eight injuries. Statement has been made in paragraph 3 of the petition that the Petitioner No. 1 is accused in one other case being Sasaram P.S. Case 2 of 2014 registered under Sections 341, 323, 307, 504 and 506/34 of the IPC and under Section 27 of the Arms Act, but it is orally submitted by learned counsel for the petitioners that Petitioner No. 1 is on bail in that case as no statement to that effect has been made in the petition whereas, a further statement has been made in paragraph 3 of the petition that the Petitioner No. 2 is not having any criminal antecedent.

Learned counsel for the informant and learned APP submit that though the accusation of firing is not against the petitioners, but they participated in the occurrence.

Considering the fact that son of Petitioner No. 1 died after receiving eight gun shot injuries, the FIR lodged by the petitioners side is at earlier in point of time and the specific accusation of causing fire arm injury to the son of the informant, namely, Mahtab Alam is against co-accused Nanhak Chaudhary,



let the petitioners above named be released on anticipatory bail in the event of arrest or surrender within 12 weeks on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned CJM, Rohtas at Sasaram in connection with Sasaram (Town) P.S. Case No. 1857 of 2017 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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