IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32082 of 2018
Arising Out of PS.Case No. -74 Year- 2015 Thana -PASRAHA District- KHAGARIA

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1. Bibhuti Kumar,
2. Abhimanyu Kumar Both son of Arvind Yadav, R/o Vill.- Ganaul, P.S.- Bhabanipur, District- Bhagalpur.

.... Petitioner/s

Versus

The State of Bihar

... . Opposite Party/s

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Appearance:
For the Petitioner/s : Mr. Pramod Kumar Singh
For the Opposite Party/s : Mr. Lakshmi Kant Sharma

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 19-07-2018 Heard learned counsel for the petitioners, learned A.P.P. representing the State and the learned counsel for the informant.

The petitioners seek bail in connection with Pasraha P.S. Case No. 74 of 2015 registered for the offence punishable under Section 302/34 of the Indian Penal Code.

Allegedly, the petitioners and other F.I.R. named accused persons killed Mithilesh Yadav, the brother of the informant, which was seen by Dilkhush Kumar, the younger brother of the informant. During investigation the statement of Dilkush Kumar has been recorded vide para 37 of the case diary wherein he has stated that Arbind Yaadv shot his brother which hit the neck near arm of his brother and thereafter, Pawan Yadav assaulted with spade causing injury on his arm and the petitioners

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and their sons were present there armed with three-not and thereafter they fled away after opening fire.

Submission is that as per the statement of Dilkhush Kumar, petitioners are only members of the mob, they are not the assailant and, as such, they deserve sympathetic consideration, further the slipper found at the place of occurrence was not of the petitioners. It is further submitted that similarly situated co-accused has already been granted bail by this Court by order dated 25.04.2016 passed in Criminal Misc. No. 9377 of 2016. The petitioners are stated to be having a clean antecedent and they are languishing in custody since 05.02.2018 and 22.03.2018 respectively.

The learned A.P.P. duly assisted by the learned counsel for the informant submits that as per the statement of Dilkhush Kumar, the petitioners are only members of the mob.

In the facts and circumstances stated above, the petitioners, above named, are directed to be released on bail on execution of bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned A.D.J., F.T.C.-II, Khagariya in connection with Pasraha P.S. Case No. 74 of 2015, S.C. No. 363A/2016 subject to the conditions that one of the bailors must be near relative and another having

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sufficient immovable property within the territorial jurisdiction of the court concerned and the petitioners shall remain present on each and every date during trial and the default on two consecutive dates on their part without any reason shall disentitle the petitioners from privilege of bail.

(Mohit Kumar Shah, J)

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