

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14934 of 2019

Arising Out of PS. Case No.-175 Year-2008 Thana- BAIRIYA District- West Champaran

1. Jawahar Yadav @ Jawahir Yadav, Son of Late Rajharan Yadav, Resident of Jagdishpur, Paterwa, Police Station- Bairiya, District- West Champaran
2. Jata Yadav @ Jata Shankar Yadav, Son of Late Rajharan Yadav, Resident of Village-Jagdishpur, Paterwa, Police Station-Bairiya, District-West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar No 7

For the Opposite Party/s : Mr.Rajesh Kumar

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 12-03-2019 Heard learned counsels for the petitioners and the State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 302, 201 and 120B/34 of the IPC and Section 27 of the Arms Act.

The present case has a chequered history depicting the callous manner in which the investigation is being concluded. Bairiya P.S. Case No. 175 of 2008 was registered on 02.12.2008 under the above mentioned provisions on the fardbeyan of Saraswati Devi, recorded by S.H.O., Bairiya Police Station on 01.12.2008. The prosecution case is to the effect that on 01.12.2008 at 11 A.M., the husband and son of the informant were coming from Village Sumali with cut crops loaded on a



tractor. The husband of the informant was driving the tractor whereas the son of the informant was sitting on the trailer of the tractor. The informant along with her daughters were also returning from the agricultural field when at 11.30 A.M., the informant heard the sound of gunshot, whereupon the informant along with her daughters reached near the tractor and saw all the F.I.R. named accused persons and some unknown persons armed with deadly weapon and found her husband dead with gunshot injuries. Consequently, the F.I.R. was lodged against four persons, namely, Sanjay Yadav, Nagendra Yadav, Reena Devi and Jayprakash Yadav. On conclusion of investigation, chargesheet was submitted vide Chargesheet no. 103 of 2009, on 30.10.2009, as contained in Annexure-2, against co-accused Reena Devi and Sudama Singh for the offences punishable under Sections 302 and 120B/34 of the IPC and Section 27 of the Arms Act, but both the chargesheeted accused were being put on trial and subsequently were acquitted vide judgment dated 15.02.2012, passed by learned Addl. Sessions Judge, F.T.C.-IV, Bettiah, West Champaran in S. Tr. No. 185 of 2010. After their acquittal, second chargesheet, being Chargesheet No. 371 of 2015 was submitted on 14.10.2015, as contained in Annexure-4, against 6 accused persons including the petitioners



for the offences punishable under Sections 302 and 120B/34 of the IPC and Section 27 of the Arms Act and consequently, the order of cognizance was passed. Hence, the present application has been filed with a prayer for grant of anticipatory bail.

It is submitted by learned counsel for the petitioners that the petitioners were not named in the F.I.R., their names subsequently sprang up during investigation and after seven years of investigation being concluded and after three years of acquittal of the first chargesheeted accused, second chargesheet has been submitted against the petitioners in the year 2015 and the petitioners could not prefer the application for grant anticipatory bail since they were not aware about cognizance being taken against them. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP submits that chargesheet has been submitted against the petitioners under Sections 302 and 120B/34 of the IPC and Section 27 of the Arms Act.

Considering the fact that the F.I.R. was lodged in the year 2008, wherein the petitioners were not named, first chargesheeted accused have already been acquitted and after their acquittal after seven years of institution of the F.I.R., the



petitioners were sought to be chargesheeted, coupled with the 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 Chief Judicial Magistrate, West Champaran at Bettiah in connection with Bairiya P.S. Case No. 175 of 2008, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

Amrendra/-

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