

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79699 of 2018

Arising Out of PS. Case No.-57 Year-2018 Thana- GHOSWARI District- Patna

1. Rajniti Yadav, S/o Late Suresh.
2. Shadhu Yadav, aged about 28 years, S/o Mauli Yadav.
3. Vikky Yadav, aged about 27 years, S/o Jhallu Yadav. All are resident of village-Isha Nagar, P.S. Ghoshwari, District-Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Santosh Kumar Singh

For the Opposite Party/s : Mr.Yogendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

6 05-04-2019 It appears that case diary of Ghoshwari P.S. Case No. 57 of 2018, was called for by a Co-ordinate Bench of this Court, vide order dated 22.01.2019, and thereafter by a different Bench of this Court, vide order dated 19.02.2019, legible copy of the case diary was called for, but since the complete case diary was not received, vide order dated 11.03.2019, Sr. S.P., Patna was directed to file show cause by 06.04.2019, but the matter was inadvertently listed on 29.03.2019, when this Court directed the Sr. S.P., Patna to remain present in the Court on 05.04.2019 along with the explanation on affidavit for non-



compliance of the order of this Court,

In pursuance to the order dated 29.03.2019, Sr. S.P., Patna is present in the Court and files show cause on affidavit.

Learned Advocate General submits that on 11.03.2019, the complete case dairy was received, but inadvertently it was not placed by the office.

In the circumstances, the show cause filed by the Sr. S.P., Patna is accepted.

The personal appearance of Sr. S.P., Patna is dispensed with.

Though, the matter has been listed under the heading 'For Orders (on Office Notes)', but the since the main case diary has been received, on the prayer of learned counsel for the petitioner, with the consent of learned APP, the matter is being heard on merits.

Learned counsel for the petitioners submits that petitioner nos. 1 and 3 have already been arrested in connection with Ghoswari P.S. Case No. 19 of 2019, hence, their application with regard to anticipatory bail has become infructuous.

Accordingly, the present application with regard to petitioner nos. 1 and 3 is dismissed as infructuous.



So far as petitioner no.2 is concerned, he is apprehending arrest in a case registered for the offences punishable under Sections 147, 148, 149, 302 and 120B of the IPC.

The prosecution case, as per the fardbeyan of Kaushalendra Yadav, recorded by Bibhuti Bhushan Kumar, S.H.O., Ghoswari Police Station on 25.08.2018, at Lathiya More is to the effect that on the same day at about 5.45 A.M., the informant and his brother, Ravindra Yadav were going to ease out, in the meantime, on two motorcycles, all the six FIR named accused persons including the petitioners came when petitioner nos. 1 and 3 caught hold of the brother of the informant and co-accused, Madhu Yadav resorted to fire causing injury on the head and chest of the brother of the informant. In the meantime, petitioner no.2, Sadhu Yadav came on a horse and started indiscriminate firing in the air. Subsequently, the brother of the informant succumbed to the injuries.

It is submitted by learned counsel for the petitioner that in the background of land dispute, the accusation has been levelled against the petitioners. The specific accusation of causing firearm injury to the brother of the informant is not alleged against the petitioners. Though, petitioner no.2, Sadhu Yadav is



alleged to have resorted indiscriminate firing, but no one received injury due to firing made by petitioner no.2. It is further submitted that the victim, Ravindra Yadav had killed the father of petitioner no.2, for which Ghoshwari P.S. Case No. 15 of 2006 was lodged against him with accusation under Section 302 of the IPC, hence, the petitioner no.2 has maliciously been roped in the present case. A statement has been made in paragraph no.3 of the petition that the petitioner no.2 is not having any criminal antecedent.

Learned APP, after going through the case diary, submits that apart from the informant, who is an eye-witness to the alleged occurrence, statements of two other eye-witnesses, namely, Uchit Yadav and Sakshi Bhopat Yadav have been recorded in paragraph nos. 9 and 36, respectively, where they have supported the prosecution case.

Considering the fact that petitioner no.2 resorted indiscriminate firing on the spot and the said accusation has also been supported by two other eye-witnesses, this Court is not inclined to grant anticipatory bail to petitioner no.2.

Accordingly, the prayer for anticipatory bail with regard to petitioner no.2 is rejected in connection with Ghoshwari P.S. Case No. 57 of 2018, pending in the Court of



learned ACJM-III, Barh, Patna.

(Dinesh Kumar Singh, J)

Amrendra/-

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