

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72036 of 2018

Arising Out of PS. Case No.-10 Year-2001 Thana- KUNDWACHAINPUR District- East
Champaran

-
1. Shamsul Haque, aged 50 years.
 2. Mazarul Haque, aged 55 years.
Both sons of Late Karmullah, resident of Village- Mahuawa, P.S. Dhaka,
District- East Champaran.

... .. Petitioners.

Versus

The State Of Bihar

... .. Opposite Party.

Appearance :

For the Petitioners	:	Mr. Abhishek Kumar alias Sonu Babu, Advocate.
For the State	:	Mr. Lalan Kumar, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

4 22-04-2019 Heard learned counsel for the petitioners and the
learned A.P.P. for the State.

The petitioners apprehend their arrest in connection
with Kundwachainpur P.S. Case No.10 of 2001 registered under
Sections 147, 148, 149 and 302 of the Indian Penal Code
besides Section 27 of the Arms Act.

The accusation is that on 15.04.2001 at about 12 O'
clock in the day, the informant Batahu Sah and his nephew Ram
Babu were standing in the que to cast vote at the polling booth,
situated at Primary School, Dostiya, of the Panchayat election.
In the meantime, the co-accused Md. Rahamtullah along with
the petitioners and 30-40 unknown variously armed with gun,



rifle, farsa and garasa came there and started firing and tried to capture the booth. On protest made by Ram Babu, the nephew of the informant, Md. Rahamtullah is alleged to have opened fire upon the nephew of the informant, as a result whereof, he died.

Learned counsel appearing on behalf of the petitioners submits that after completion of investigation, the final form was submitted by the Investigating Officer, saying about committing the occurrence by unknown but the Sub Divisional Judicial Magistrate, Sikarahana, differing with the final form submitted by the Investigating Officer, took the cognizance of the offence under Sections 147, 148, 149 and 302 of the Indian Penal Code and Section 27 of the Arms Act, on 14.03.2016. Further submission is that the informant in his statement recorded under Section 164 of the Code of Criminal Procedure has also not supported the prosecution case. While the petitioners are named in the F.I.R. but no specific overt act has been attributed to the petitioners. Moreover, the co-accused Md. Rahamtullah has already been granted the privilege of pre-arrest bail by a coordinate Bench of this Court vide order dated 15.04.2019 passed in Criminal Misc. No.68530 of 2018. The petitioners have no criminal antecedents.



Having considered the facts and the circumstances of the case, let the petitioners, above named, in the event of their arrest or surrender by them within six weeks from today, be enlarged on bail on their furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the Sub-Divisional Judicial Magistrate, Sikrahana at Dhaka, East Champaran, in connection with Kundwachainpur P.S. Case No.10 of 2001, subject to the conditions laid down under Section 438(2) Cr.P.C.

(Rajendra Kumar Mishra, J)

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