

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.74272 of 2018

Arising Out of PS. Case No.-245 Year-2018 Thana- KHAJEKALA District- Patna

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Satish Kumar, Son of Suresh Choudhary, Resident of Village-Lala Toli,P.S.
Khajhekala,Distt.-Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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with

Criminal Miscellaneous No. 77714 of 2018

Arising Out of PS. Case No.-245 Year-2018 Thana- KHAJEKALA District- Patna

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Devi Chaudhary, Son of Late Bishnudeo Chaudhary Resident of village- Near
Kalimandir P.S- Khajekalan, District- Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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with

Criminal Miscellaneous No. 73274 of 2018

Arising Out of PS. Case No.-245 Year-2018 Thana- KHAJEKALA District- Patna

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Shashi Kumar, S/o Suresh Chaudhary R/o Vill.-Lala Toli,P.S.
Khajekala,Distt.-Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

(In Criminal Miscellaneous No. 74272 of 2018)

For the Petitioner/s : Mr.Hari Mohan Tripathi, Adv.

For the Opposite Party/s : Mr. Ramchandra Singh, APP

(In Criminal Miscellaneous No. 77714 of 2018)

For the Petitioner/s : Mr.Raj Bansh Dubey, Adv.

For the Opposite Party/s : Mr. Shyam Bihari Singh, APP



(In Criminal Miscellaneous No. 73274 of 2018)

For the Petitioner/s : Mr.Hari Mohan Tripathi, Adv.

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 23-01-2019 Heard learned counsel for the petitioners and learned
APP for the State.

The petitioner Satish Kumar and Shashi Kumar are languishing in custody since 03.08.2018, whereas, petitioner Devi Chaudhary is languishing in custody since 31.07.2018 in a case registered for the offence punishable under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case got initiated on the Fardbeyan of Champa Devi, recorded by S.I. Rupak Kumar Singh of Khajekala Police Station on 26.07.2018 at 8.30 P.M. at Hans Raj Ki Dehri, to the effect that on 26.07.2018 at 2.45 P.M. Ram Singh, resident of Lala Toli called the son of the informant on mobile phone and asked him to come outside. When the son of the informant did not respond then co-accused Ram Singh and his friend co-accused Subhash Yadav came to the house of the informant and took the son of the informant. After ten minutes, the informant came to know that his son is being assaulted by some persons. On receiving such information, the informant along with her daughter Arti



Kumari, brother Shrawan Prasad Thakur and other relatives went to the spot and saw that co-accused Subhash Yadav and Shiv Shankar Rai were firing on the son of the informant, which hit the left knee of his son, as a result, he fell down. Thereafter, co-accused Ram Singh, the petitioners and two other accused persons, namely Bhola and Prince assaulted him with bricks and stones and fists and slaps. On arrival of the neighboring persons, the accused persons escaped from the scene.

It is submitted by learned counsel for the petitioners that the thrust of accusation is against co-accused Subhash Yadav and Shiv Shankar Rai. It is further submitted that co-accused Prince and Bhola have been granted bail by a co-ordinate Bench of this Court vide Criminal Miscellaneous No. 64407 of 2018 and Criminal Miscellaneous No. 71968 of 2018 considering the fact that there is specific accusation against co-accused Subhash Yadav and Shivshankar Rai of resorting to firing and causing injury to the informant's son, but the post-mortem does not reflect any injury caused by fire arm, whereas, co-accused Subhash Yadav, who is alleged to have fired on the informant's son has also been granted bail by a co-ordinate Bench of this Court vide Criminal Miscellaneous No.



76644 of 2018. Though three injuries have been found on the person of the deceased caused by hard and blunt substance, but omnibus and general accusation of assault with bricks and stones has been levelled against several persons. The contradiction between the accusation and the medical opinion suggest that the informant has not witnessed the occurrence and has falsely implicated the accused persons, including the petitioner. It is further submitted that the petitioner Satish Kumar, who is also accused in one other case, apart from the present case, but he is on bail in that case, whereas the other two petitioners are not having any criminal antecedent. A statement to that effect has been made in paragraph no.3 of the respective petitions.

Learned APP for the State after going through the case diary submits that there is omnibus and general accusation of assault against all the accused persons, including the petitioner.

Considering the accusation being not corroborated by the medical opinion and other similarly situated co-accused persons have been granted bail, let the above named petitioners be released on bail, on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like



amount each to the satisfaction of learned SDJM, Patna City,
in connection with Khajekala P.S. Case No.245 of 2018.

(Dinesh Kumar Singh, J)

Ashwini/-

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