

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26022 of 2018

Arising Out of PS. Case No.-704 Year-2017 Thana- BIHTA District- Patna

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Mohammad Shabir @ Jaheed @ Tanveer @ Shabir Son of Md. Munna,
Resident of Mohalla- Sanichra Mandir, New Ajimabad Colony, P.S.-
Bahadurpur, District- Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 34590 of 2018

Arising Out of PS. Case No.-704 Year-2017 Thana- BIHTA District- Patna

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Shankar Choudhary son of Late Ganesh Choudhary @ Late Ganesh Prasad,
Resident of Yarpur Devi Sthan Nimtar, P.S.- Gardanibagh, District- Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 26022 of 2018)

For the Petitioner/s : Mr.Kumar Rajeev, Advocate

For the Opposite Party/s : Mr.Ajay Mishra , APP

(In CRIMINAL MISCELLANEOUS No. 34590 of 2018)

For the Petitioner/s : Mr.Samir Kumar, Advocate

For the Opposite Party/s : Mr.Rabindra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

10 01-05-2019 Heard learned counsel for the petitioners, learned

counsel for the informant and learned Additional Public Prosecutor

for the State.

The petitioners are languishing in custody for the

offences punishable under Sections 326/302/34 of the Indian

Penal Code and Section 27 of the Arms Act.

The FIR of the occurrence of murder of Nirbhay

Kumar Singh was lodged by his brother Ajay Kumar against



unknown. Ajay Kumar claims to be an eyewitness of the occurrence and he said that unknown criminals fired at Nirbhay Kumar Singh causing his immediate death near the cinema hall of the informant.

During investigation suspicion was raised against other co-accused as they were involved in realization of ransom from the local businessmen, which was being protested by the deceased being leader of the business community. Some other accused stated that he has also grudge against the deceased as the deceased was not refunding his money. The FIR was lodged on 15.09.2017. Thereafter, on 03.10.2017 Ratnesh Kumar, the uncle of the deceased and the informant, stated before the police that he had seen the occurrence and the petitioners as well as co-accused Amit Kumar had fired causing injury to the deceased.

Submission of learned counsel for the petitioners is that petitioners are in custody since 28.09.2017. If witness Ratnesh Kumar would have seen the occurrence, there was no reason that the name of the petitioners did not surface in the first information report; rather petitioners have been implicated as a result of after thought consequence.

Contention is that Ratnesh Kumar has already been examined during the course of trial as prosecution witness No.1 and in the cross-examination he stated that at the time of



occurrence informant was also there but this witness had no talk with the informant. This also makes the prosecution allegation suspicious for the purpose of consideration of this prayer for bail.

Learned counsel for the informant submits that the petitioners are the main assailant of the deceased. They were apprehended by the police from Mumbai and the trial is at the verge of conclusion.

Considering the aforesaid infirmity, let the petitioners, above named, be released on bail on furnishing bail bond of Rs.20,000/- (Twenty Thousand) each with two sureties of the like amount each to the satisfaction of the learned Court-below where the case is pending in connection with Bihta P.S. Case No.704 of 2017, with following conditions:

(a) Both the bailors shall be the resident of territorial jurisdiction of the learned Court-below having immovable property.

(b) The petitioners shall fully cooperate with the trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioners.

(Birendra Kumar, J)

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