

THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 11724 of 2020

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1. Naresh Rai aged about 40 years, Gender-Male, Son of Mushafir Rai, resident of village-Jaishinpur Karamwa, P.S. Turkauliya, District-East Champaran, Motihari
 2. Akhilesh Kumar Yadav @ Akhilesh Kumar aged about 35 Years, Gender-Male Son of Late Baliram Yadav, resident of village-Jaishinpur Sataha, P.S. Turkauliya, District East Champaran, Motihari
 3. Kanhaiya Yadav @ Kanhaiy Kumar aged about 33, Gender-Male son of Late Baliram Rai, Resident of Village-Jaishinpur Sataha, P.S. –Turkauliya, District-East Champaran, Motihari
 4. Harendra Rai aged about 50, Gender- Male son of Rajdeo Rai, resident of village-Jaishinpur Karamawa, P.S.-Turkauliya, District East Champaran, Motihari
 5. Bipin Yadav aged about 45 Gender-Male, Son of –Bhikhari Rai, Resident of - Village-Jaishinpur Karamawa, P.S. –Turkauliya, District-East Champaran, Motihari
 6. Arvind Prasad Yadav @ Arbind Rai aged about 45 Gender-Male, son of Mahendra Prasad Yadav, resident of village-Jaishinpur Karamawa, P.S. –Turkauliya, District-East Champaran, Motihari
 7. Lal babu @ Lal babu Rai aged about 50 Gender-Male son of Rajdeo Rai, Resident of Village-Jaishinpur Karamawa, P.S. –Turkauliya, District-East Champaran, Motihari

..... Petitioners

Versus

The State of Bihar

..... Opposite party

Appearance

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

For the State : Mr. Anil Kumar Singh no.1, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

3 25.08.2020

Heard learned counsel for the petitioners and learned

A.P.P for the State through video conferencing.

At the outset it is submitted by learned counsel for the



petitioner that the petitioner nos.5 and 6 having been arrested during pendency of this application and as such he seeks permission to withdraw their application. The application, so far as petitioner nos.5 and 6 are concerned, stands dismissed as withdrawn.

The petitioner nos. 1, 2, 3, 4 and 7 pray for grant of anticipatory application apprehending their arrest in connection with Turkauliya P.S. Case No. 578 of 2019 registered under sections 302, 147, 148, 149 and 341 of the Indian Penal Code and section 27 of the Arms Act.

As per allegation in the F.I.R, the 13 named accused persons including the petitioners herein, came variously armed and it is stated that on the orders of petitioner nos.5 and 6, co-accused Rakesh Kumar shot the father of the informant in the upper part of his head. Thereafter it is stated that petitioner no.7 said that he should be fired upon again, on which co-accused Dilip Kumar Yadav and thereafter Arun Yadav fired two more shots. It is finally submitted that thereafter the petitioner nos.2, 3 and 4 assured themselves by moving the body that the father of the informant had died and stated that now the son and the wife of the deceased should also be shot. It is finally stated that on a number of persons gathering there, the accused persons escaped.

It is submitted by learned counsel for the petitioners that from reading of the F.I.R. itself it would be evident that the main



allegation of overt act and of firing is on co-accused Rakesh Yadav, Dilip Kumar Yadav and Arun Yadav who are not the petitioners herein and so far as the petitioners herein are concerned, no overt act has been alleged against them. It is further submitted that so far as role assigned to these petitioners are concerned, the same are ornamental in nature only with the purpose to falsely implicate the maximum number of persons. The petitioners have no criminal antecedent.

The application for bail is opposed by learned APP for the State.

Case diary had been called for and the same has been received.

Having heard learned counsel for the parties and taking into consideration the materials that has transpired from the F.I.R. it is clear that the second and third shot on the informant's father had been made by the co-accused at the instigation of petitioner no.7. It further transpires that after three shots having been fired on the informant's father it was the petitioner nos. 2, 3 and 4 who moved the body of the deceased to ensure that he had died. No such act is alleged against the petitioner no.1 who is only named as one of the 13 accused in the F.I.R.

In the facts and circumstances of the case, the Court is not inclined to enlarge the petitioner nos. 2, 3, 4 and 7 on



anticipatory bail and as such their application for anticipatory bail is rejected.

Further in view of the facts stated hereinabove, the Court is inclined to enlarge the petitioner no.1 on anticipatory bail. The petitioner no. 1 is directed to surrender in the Court below within a period of eight weeks from today and in the event of his arrest or surrender in connection with Turkauliya P.S. Case No. 578 of 2019, he will be enlarged on bail on furnishing bail bond of Rs 10,000.- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned C.J.M., Motihari, East Champaran, subject to the conditions as laid down in section 438 (2) of Criminal Procedure Code.

(Partha Sarthy, J)

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