

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13048 of 2020

Arising Out of PS. Case No.-275 Year-2019 Thana- District- Patna

1. Shivbansh Upadhyay @ Shivbansh Upadhyaya, Son of Late Ram Ekbal Upadhyay Resident of Village- Rani Talab, P.S.- Rani Talab, District- Patna.
2. Kamlesh Upadhyay Son of Shivbansh Upadhyay @ Shivbansh Upadhyaya Resident of Village- Rani Talab, P.S.- Rani Talab, District- Patna.
3. Mahesh Upadhyay Son of Shivbansh Upadhyay @ Shivbansh Upadhyaya Resident of Village- Rani Talab, P.S.- Rani Talab, District- Patna.
4. Mithlesh Upadhyay @ Mithilesh Upadhyay Son of Shivbansh Upadhyay @ Shivbansh Upadhyaya Resident of Village- Rani Talab, P.S.- Rani Talab, District- Patna.
5. Mukesh Upadhyay Son of Late Akhilesh Upadhyay @ Akhileshwar Upadhyay Resident of Village- Rani Talab, P.S.- Rani Talab, District- Patna.
6. Prakash Upadhyay Son of Late Akhilesh Upadhyay @ Akhileshwar Upadhyay Resident of Village- Rani Talab, P.S.- Rani Talab, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailesh Kumar
For the Opposite Party/s : Mr. Anil Kumar Singh No. 1

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

3 23-07-2020 Heard learned counsel for the petitioners and the learned A.P.P. for the State through video conferencing.

The petitioners apprehend their arrest in connection with Rani Talab P.S. Case no. 275 of 2019, registered under Sections 147, 148, 149, 337, 338 and 307 of the Indian Penal Code and Section 25(1-b)a, 26 and 27 of the Arms Act.

The accusation is that informant Nagendra



Tripathi, being the S.I of Rani Talab Police Station, on receiving information about firing and pelting stones in between two groups in village Rani Talab, he along with other Police personnel reached there then saw from one side Mahesh Upadhyay (Petitioner No.3) and Kamlesh Upadhyay (Petitioner No.2) were indulged in making firing from their roof and his associates Mithlesh Upadhyay, Mukesh Upadhyay, Prakash Upadhyay and Shivbansh Upadhyay (petitioner Nos. 4, 5, 6 and 1) were also indulged in pelting stones and from other side Narayan Upadhyay, Mangal Upadhyay were indulged in making firing from their potato field and his associates Rajendra Upadhyay, Shivnandan Upadhyay, Prakash Upadhyay, Prahlad Upadhyay and Amarjeet Upadhyay were indulged in pelting stones. On seeing the Police party, Mahesh Upadhyay and his associates on getting down from the roof fled away in north direction and Narayan Upadhyay and his associates started fleeing in south direction. At that time, Mahesh Upadhyay and Kamlesh Upadhyay were seen showing katta in their hands. On search of roof of Mahesh Upadhyay (Petitioner No.3), four live cartridges and three empty cartridges recovered and from the potato field, two live cartridges and four empty cartridges recovered, from where



Narayan Upadhyay and Mangal Upadhyay were making firing.

Learned counsel for the petitioners submits that petitioners have falsely been implicated in this case by the Police at the instance of Narayan Upadhyay to whom there is land dispute. Further submission is that, in fact, Plot No. 1171, area 5.44 acres is Khatiyani land of the petitioners and rent receipt is also being received, but co-accused Narayan Upadhyay and his associates tried to grab the said land regarding which proceeding under Section 145 of Cr.P.C. was instituted vide Case No. 505 (M) of 1999 before Sub-Divisional Magistrate, Paliganj, which was decided in favour of the petitioners. Thereafter, co-accused Narayan Upadhyay and his associates preferred Criminal Revision No. 407 of 2002 before the Addl. Sessions Judge-V, Danapur, which was allowed and, thereafter, petitioners challenged the same under Section 482 Cr.P.C. vide Criminal Miscellaneous No. 32212 of 2016 in which revisional order dated 09.05.2016 has been stayed. Further submission is that petitioners have no criminal antecedent, except, Rani Talab P.S. Case No. 92 of 2015, which was instituted regarding family dispute against petitioner Nos. 1,3,4 and 5 and Rani Talab P.S. Case No. 45 of 2019 was also



instituted by co-accused Narayan Upadhyay in which petitioners are on bail.

Having regard to the facts and circumstances of the case, let the above named petitioners, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Danapur, Patna in connection with Rani Talab P.S. Case No. 275 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Rajendra Kumar Mishra, J)

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