

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 78386 of 2019

Arising Out of PS. Case No.-356 Year-2019 Thana- MOTIHARI MUFASIL District- East
Champaran

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1. Abhimanu Singh, aged about 26 years, male, Son of Late Ramashish Singh.
 2. Raja Kumar @ Raja Kumar Singh, aged about 24 years, male, Son of Sri Hari Narayan Singh.
Both resident of Village- Rai Singha, P.S.- Motihari Muffasil, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shri Prakash Srivastava and Mr. Shashi Bhushan Pandey, Advocates
For the State	:	Mr. Uday Pratap Singh, APP
For the Informant	:	Mr. Ajay Kumar Singh, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 03-09-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Shri Prakash Srivastava, learned counsel along with Mr. Shashi Bhushan Pandey, learned counsel for the petitioners; Mr. Uday Pratap Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Ajay Kumar Singh, learned counsel for the informant.

3. The petitioners apprehend arrest in connection with Motihari Muffasil PS Case No. 356 of 2019 dated 07.08.2019,



instituted under Sections 147, 148, 149, 323, 307, 120B of the Indian Penal Code to which later on Section 302 of the Indian Penal Code was added and Section 27 of the Arms Act.

4. The allegation, as per the FIR, against the petitioners and five others is of being armed with firearms and firing in the air and another co-accused of firing on the deceased.

5. Learned counsel for the petitioners submitted that as per the FIR, it was co-accused Raj Narayan Singh, who had fired on the deceased and against the petitioners and others, it is general and omnibus of also firing in the air. Learned counsel submitted that the petitioners do not have any other criminal antecedent and there is old enmity which has also been stated in the FIR itself. Learned counsel submitted that co-accused Bhagyanarayan Singh @ Bhagnarayan Singh @ Jawahar Singh and Ramnarayan Singh @ Rama Singh have been granted anticipatory bail in Cr. Misc. No. 75372 of 2019, by order dated 16.03.2020. It was further submitted that full brother of the deceased and another son of the deceased have not stated during investigation with regard to any specific act of firing against the petitioners.

6. Learned APP, from the case diary, submitted that one son namely Divesh has stated that it was petitioner no. 1, who had fired on the deceased.



7. Learned counsel for the informant submitted that besides Divesh, son of the deceased, specifically stating about the petitioner no. 1 being the person who had fired, three other independent witnesses, who are also co-villagers have supported the fact that it was petitioner no. 1, who had fired. Learned counsel submitted that death was caused due to one gunshot injury, as has been recorded in the postmortem report.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner no. 2 (Raja Kumar @ Raja Kumar Singh) be released on bail upon furnishing bail bonds of Rs. 25,000/- (Twenty Five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, East Champaran, Motihari in Motihari Muffasil PS Case No. 356 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner no. 2, (ii) that the petitioner no. 2 and the bailors shall execute bond with regard to good behaviour of the petitioner no. 2, and (iii) that the petitioner no. 2 shall also give an undertaking to the Court that he shall not indulge in any criminal activity,



tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner no. 2 shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

9. The prayer for pre-arrest bail of petitioner no. 1 (Abhimanyu Singh), stands rejected.

10. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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