

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20708 of 2021

Arising Out of PS. Case No.-130 Year-2020 Thana- SURYAPUR District- Rohtas

Heera Muni Devi @ Tara Muni Devi @ Hira Muni Devi, Wife of Hare Ram Singh @ Ram Dayal Singh @ Hare Ram Dayal Singh, Resident of Village- Agrer Kala Tola, P.S.- Suryapura, District- Rohtas.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh cdhandra Verma, Sr. Advocate Mr. Om Prakash, Advocate.
For the Informant	:	Mr. Mr. Nityanand Tiwary, Advocate Mr. Mukesh Kumar, Advocate
For the Sate		Mr. Anil Kumar Singh no.1, Advocate

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

4 15-12-2021 The applicant/accused in Crime No. 130 of 2020 registered with Suryapura Police Station for the offences punishable under Sections 147, 148, 149, 341, 323, 302, 307, 504 and 506 of the Indian Penal Code as well as Section 27 of the Arms Act at the instance of first informant Ajay Singh, by this application is seeking her release on bail during pendency of the trial.

Heard the learned senior counsel appearing for the applicant/accused. It is argued on behalf of the applicant that the applicant is lady of advance age and therefore, she is entitled for bail. It is further argued that except two witnesses namely Bhikhari Singh and the first informant Ajay Singh, nobody



supported case of the prosecution on the vital aspect of ascribing role to the applicant in the crime in question. some of the witnesses are only stating that the applicant was throwing bricks on the members of the prosecution party from the terrace. It is further argued that the prosecution has not come up with the true version of the case.

The learned Additional Public Prosecutor opposed the application by pointing out that there is evidence to connect the applicant in the crime in question.

I have considered the submissions so advance and also perused the charge sheet, affidavits as well as counter affidavit placed on record.

According to the prosecution case, accused persons formed an unlawful assembly with a common object of committing murders of the members of the prosecuting party and in prosecution of that common object of the unlawful assembly, they had committed murder of Kamla Singh and attempted to commit murder of Sanjay Singh and Bhikhari Singh.

First informant is Ajay Singh. He reported on the day of the incident itself, i.e., on 05.09.2020 that the incident started at 9.30 A.M. and continued for fairly long period of time. It took



place in two parts. Initially six accused persons including applicant Tara Muni Devi were stated to be assaulting Bhikhari Singh - cousin of first informant Ajay Singh. Then it is averred by the first informant that subsequently Hare Ram Singh - one of the accused who was leading that unlawful assembly gave telephone call and summoned Rabindra Singh and Nandu Singh. According to the first informant, these two summoned accused started indiscriminate firing. Thereafter when the members of the prosecution party were trying to rescue Bhikhari Singh, it is averred by the first informant that the present applicant handed over two firearms to co-accused Anil Singh and Munji Singh. Co-accused Anil Singh then fired at Kamla Singh causing his death whereas co-accused Munju Singh fired at Sanjay Singh who suffered grievous injury.

Version of Ajay Singh is gaining corroboration from the report of postmortem examination of Kamla Singh as well as the injury certificate of Sanjay Singh.

They are eye witnesses to the incident who are supporting the first informant. We are having on record statement of Rabindra Singh, Kashinath Singh, Suresh Singh and Surendra Singh apart from that of Bhikhari Singh and Sanjay Singh. They are corroborating the version of first



informant regarding incident in question.

True it is that some of the witnesses have not spoken about handing over the firearms by the applicant to co-accused Anil Singh and Munji Singh but one will have to keep in mind that the incident took place in at least two parts and it is not necessary that each witness will witness the incident in its entirety.

Section 149 of the Indian Penal Code imposes vicarious liability on each member of the unlawful assembly and it is not necessary that each member of the unlawful assembly must participate in the incident by committing some overt act. It is enough if the members are sharing common object. Common object of the unlawful assembly can be gathered from the nature of assembly, the behaviour of members of the unlawful assembly, weapons used by the members of the unlawful assembly etc. In this view of the matter it cannot be said that the applicant was not sharing common object of the unlawful assembly at the time of the incident and therefore she is not vicariously liable for the result of action of the members of the unlawful assembly.

In this view of the matter, considering the fact that the instant case is that of a murder of one human being and attempt



on life of two others, no case for grant of bail to the applicant/accused is made out. Application is therefore rejected.

Needless to mention that the learned trial court shall not be influenced by the observations made by this Court in the instant order which shall have no bearing on the trial of the offence.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the appellant/accused.

Bhardwaj/-

(A. M. Badar, J)

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