

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.22436 of 2020**

Arising Out of PS. Case No.-8 Year-2018 Thana- BITHAN BAZAR District- Samastipur

SANJEET KUMAR @ GORKHA YADAV Son of Shree Boot Yadav
Resident of Village - Sihma, P.S.- Bithan, District - Samastipur.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

with

CRIMINAL MISCELLANEOUS No. 2559 of 2021

Arising Out of PS. Case No.-8 Year-2018 Thana- BITHAN BAZAR District- Samastipur

MUKESH YADAV Son of Ramadhar Yadav Resident of Village-Sihma, P.S.-
Bithan, District-Samastipur.

... .. Petitioner

Versus

THE STATE OF BIHAR

.. ... Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 22436 of 2020)

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate

For the Opposite Party/s : Ms. Veena Kumari Jaiswal, APP

For the Informant : Mr. Sarbottam Kumar Sarkar, Advocate

(In CRIMINAL MISCELLANEOUS No. 2559 of 2021)

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

For the Opposite Party/s : Ms. Veena Kumari Jaiswal, APP

For the Informant : Mr. Sarbottam Kumar Sarkar, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

6 05-07-2021 Learned counsel for the petitioners undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard Mr. Ajay Kumar Thakur, learned counsel for the petitioners, Mr. Sarbottam Kumar Sarkar, learned counsel representing the informant and Ms. Veena Kumari Jaiswal, learned A.P.P. for the State.



Petitioners in the present case are seeking regular bail in connection with Bithan P.S. Case No. 08 of 2018 registered for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

As per the prosecution story, these petitioners alongwith four other co-accused who are named in the F.I.R. reached the place of occurrence and all of them surrounded the deceased and shot at him. Informant who is the brother of the deceased alleged that they also fired upon him and he somehow survived the firing.

Learned counsel for the petitioners submits that as per allegation there was an occurrence in which the magazine and cartridges of one Hawaldar was snatched by these accused persons and they had an apprehension that the brother of the informant had given the name of these petitioners as accused. For this reason the accused persons were threatening the brother of the informant.

Learned counsel submits that in fact the brother of the informant was a dreaded criminal and he was himself absconding. It is further submitted that the petitioner(s) have remained in jail in connection with the present case since 14.12.2019 and 09.08.2020 respectively, charge-sheet has been filed against them but the trial is not likely to take place in near future.

On the other hand, learned counsel for the informant and the learned A.P.P. for the State have opposed the prayer for bail of the petitioner(s). It is submitted that these petitioners have got criminal



antecedents and some of them are the cases under Section 307 of the Indian Penal Code. There are two and three cases against petitioners respectively and on perusal of the supplementary affidavit of the petitioner in Cr. Misc. No. 22436 of 2020 it would appear that he had Barauni P.S. Case No. 480 of 2018 under Sections 307/34 of the Indian Penal Code and Section 27 of the Arms Act and Banmankhi P.S. Case No. 141 of 2019 under Section 324, 307/34 of the Indian Penal Code and Section 27 of the Arms Act. In both the cases he was absconding and he was indulged in threatening the brother of the informant and ultimately caused his death. Petitioner in Cr. Misc. No. 2559 of 2021 is accused in three cases.

Learned counsel for the informant has relied upon the judgment of the Hon'ble Supreme Court in **Sudha Singh vs. State of Uttar Pradesh** passed in Criminal Appeal No. 448 of 2021 order dated 23.04.2021 and submits that potential threat to a witness in course of trial in the hand of the accused may be one of the considerations for rejection of prayer for bail of the petitioner.

Ms. Veena Kumari Jaiswal, learned A.P.P. for the State has also supported learned counsel for the informant and submits that the fact that the petitioner was arrested on 14.12.2019 and 09.08.2020 respectively after Section 82/83 Cr. P.C. process was taken out against them and they are accused in other cases of serious nature, there is every possibility that if released on bail at this stage, they are likely to threaten the witnesses and indulge in further crime.



Having regard to the facts and circumstances of the case, on finding that the petitioners have got criminal antecedent of serious cases and they were absconding in those cases, as informed to this Court Section 82/83 Cr. P.C. process was taken out against them and then they were arrested only on 14.12.2019 and on 09.08.2020 respectively and there is direct allegation of firing upon the deceased against them, this Court is inclined to agree with the submission of learned counsel for the informant that their release at this stage is likely to result in threatening of witnesses and thereby interfering with the course of trial, this Court, therefore, rejects the prayer for bail of the petitioners.

Let the trial be expedited. All efforts be made to conclude the trial as early as possible and preferably within a period of one year after start of normal functioning of the Court. If the trial is not concluded within the period of one year after start of normal functioning of the learned court below, the petitioners may renew his prayer for bail.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

