

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33561 of 2021

Arising Out of PS. Case No.-368 Year-2020 Thana- MURLIGANJ District- Madhepura

1. SHASHINATH YADAV S/O LATE KHALI YADAV R/O VILLAGE KOLHAYPATTI, WARD NO 05, PS MURLIGANJ, DISTRICT-MADHEPURA.
2. DEEP NARAYAN YADAV S/O KOKAY YADAV @ SUKHDEO YADAV R/O VILLAGE DUMARIA, (BASANTPUR), PS KUMARKHAND, DISTRICT-MADHEPURA.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Uday Chand Prasad, Advocate
For the State	:	Ms. Rita Verma, APP
For the Informant	:	Mr. Surya Narayan Yadav, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 21-12-2021 Heard learned counsel for the parties.

The petitioners have preferred this application for grant of regular bail in a case registered under section 307 and other sections of the Indian Penal Code and section 27 of the Arms Act.

As per the prosecution case, the seven named accused persons including the two petitioners herein are stated to have come variously armed. It is stated that Nawal Kishore Yadav, Monadhir Yadav, Sushil Yadav and the petitioner no. 2, on the orders of petitioner no. 1 started indiscriminate firing on the son of the informant leading to his sustaining gun shot injuries on



his head and other parts of the body. Thereafter, the petitioner no. 1 stated that the work had been done and escaped.

It is submitted by learned counsel for the petitioners that the petitioners have been falsely implicated in the case. The cause of false implication of the petitioners is the enmity between the parties which would be evident from the FIR lodged by the petitioners' side, Annexure 2 to this petition. So far as the petitioner no. 1 is concerned, he is stated to be the order giver. No overt act has been alleged against him. So far as the petitioner no. 2 is concerned, he is a 70 year old man and the allegation of indiscriminate firing by four accused persons are not supported by the injury report. The petitioners are in custody since 9.2.2021 and undertake to co-operate in the trial.

The application for bail is opposed by learned APP for the State and learned counsel for the informant. It is submitted by learned counsel for the informant that both the petitioners actively participated in the occurrence and the allegations are supported by the injury reports.

Having heard learned counsel for the parties and taking into consideration the allegations of firing against the petitioner no. 2, the Court is not inclined to enlarge the petitioner no. 2 on bail and the application is rejected.



So far as petitioner no. 1 is concerned, taking into consideration that he is alleged to be the order giver and is in custody for more than 10 months, the Court directs the petitioner no 1 to be enlarged on bail in connection with Murliganj P.S. Case no. 368 of 2020 on each of them furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate II, Madhepura.

In view of the trial having proceeded, it is directed that the petitioner shall co-operate in the trial and in case the learned trial Court is of the opinion that the trial is being delayed due to non-cooperation on part of the petitioner, the learned trial Court may proceed to cancel the bail bond of the petitioner and to take him into custody till conclusion of the trial.

(Partha Sarthy, J)

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