

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32362 of 2020

Arising Out of PS. Case No.-804 Year-2019 Thana- SHASTRINAGAR District- Patna

1. RISHU KUMAR SINGH S/o Late Ashok Kumar Singh, Resident of East Boring Canal Road, Opposite Tata Gini Motors, Buddhiya Market, P.S.-Buddha Colony, District-Patna.
2. Subham Kumar S/o Sri Babulal Yadav, Resident of West Boring Canal Road, P.S.-Srikrishnapuri, District-Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kr. Singh, Adv.
For the Opposite Party/s : Mr.(Dr.) Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

7 27-01-2021 Heard both sides.

2. Petitioners seek bail in Shastrinagar P.S. Case No.804 of 2019 registered under Sections 302 and 34 of the IPC.

3. The informant (brother of the deceased) alleged that Golu Singh being a head of King Patna Gang was demanding extortion and on refusal, he was threatening his brother to kill. On 09.10.2019 at about 11:00 in the night his brother along with his friends Rishu and Shubham (both petitioners) were returning to his house and when they reached near Mohanpur Punaichak Nala, Ranjan Kumar and Golu Singh were coming on another motorcycle. Ranjan Kumar was driving the motorcycle. Golu



Singh saw his brother and he fired on Aman Kumar. His brother received gun shot in which he fell down on the ground. Immediately after having received the information, the informant reached on the spot and found his brother lying injured. Golu Singh and Ranjan Kumar were there. Many neighbours assembled at the place and brought his brother to the hospital where he died.

4. Mr. Rajesh Kumar Singh, learned counsel for the petitioners submits that the petitioners are not named in the F.I.R. Both the petitioners were accompanying the deceased and the informant made specific allegation against Golu Singh, who is said to have fired on Aman Kumar killing him on the spot. It is further submitted that from perusal of para 5 of the case-diary, it would appear that the Investigating Officer collected information and found that first occurrence took place in front of the house of Kranti Singh. Golu Singh and Ranjan Kumar made indiscriminate firing. There was firing and counter firing. One person got injury and both sides started running hither and thither. The person, who got injury, was driving Pulsar motorcycle. Two persons were also sitting behind him. It is further submitted that the Investigating Officer took the C.D. from nearby place of occurrence and stated in para 51 of the



case-diary that from perusal of the CCTV installed in the house of Arbind Kumar, he observed and saw that on one Pulsar motorcycle three persons were riding. The motorcycle was being driven by Aman Kumar (deceased) and behind him, Rishu and Shubham were sitting. The person, who was sitting in the last on the motorcycle, was doing firing and was having arms in his hand. The Investigating Officer further stated that from the action of the person, who was sitting in the middle, it is evident that he was also possessing arms. Slowly the vehicle tilted towards left side which goes to show that Aman Kumar (deceased) had sustained firearm injury and thereafter the motorcycle was not under his control and he fell down. It is submitted that on such the C.D. was called for and he himself saw the entire C.D., compared the photographs of the C.D. and did not find the pictures of the petitioners in the C.D. and the petitioners were not found fleeing away having arms in their hands. If the prosecution finds that the petitioners were fleeing away or were sitting as pillion riders having arms in their hands on the motorcycle, the prosecution may move for cancellation of bail of the petitioners.

5. Learned A.P.P. opposed the prayer for bail.

6. Having considered the submissions of both sides



and on perusal of the record, I find that of course the informant stated in the F.I.R. itself that both petitioners were accompanying the deceased on his motorcycle. The informant alleged that Golu Singh fired at his brother causing his death. It has nowhere alleged that the petitioners were armed with any weapon but the Investigating Officer after seeing the C.D. stated in para 51 of the case-diary that the petitioners were also found having arms in their hands but it has not come that the petitioners fired on the deceased. If the prosecution, after perusal of the C.D., finds that the petitioners were firing, which hit the deceased, the prosecution may move for cancellation of bail of the petitioners.

7. Taking into consideration the facts aforesaid, the petitioners named above are directed to be released on bail on furnishing bail bonds of Rs.10,000/-(rupees ten thousand) each with two sureties of like amount each to the satisfaction of learned A.C.J.M. IV, Patna in connection with Shastrinagar P.S. Case No.804 of 2019.

(Prabhat Kumar Jha, J)

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