

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.553 of 2021

Arising Out of PS. Case No.-239 Year-2020 Thana- RAHUI District- Nalanda

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1. Kamlesh Prasad, Son of Sri Nand Kishore Prasad, Resident of Village-Saidali, P.S.- Rahui, Distt- Nalanda
 2. Shashikant Prasad, Son of Late Ram Babu Prasad, Resident of Village-Saidali, P.S.- Rahui, Distt- Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Udbhav, Advocate.

For the Opposite Party/s : Mr. Rajiv Nayan, APP

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

2 25-03-2021 As prayed for, let the learned counsel appearing for the petitioners remove the defect(s), as pointed out by the office, within four weeks of starting of the Court proceeding in physical mode in normal course.

Learned counsel appearing for the petitioners submits that petitioner no.2, namely, Shashikant Prasad, has been arrested by the police, so he seeks permission to withdraw this application with respect to petitioner no.2.

Permission is accorded.

Accordingly, this application is dismissed as withdrawn with respect to petitioner no.2.

Heard learned counsel for the petitioner no.1 and the



learned A.P.P. for the State.

The petitioner no.1, Kamlesh Prasad, apprehends his arrest in connection with Rahui P.S. Case No. 239 of 2020, registered under Sections 302, 147, 148, 149, 341, 323 and 324 of the Indian Penal Code and Section 27 of the Arms Act.

The accusation is that 12 persons named in the FIR including petitioner no.1, Kamlesh Prasad, reached at the door of of Manoj Kumar, cousin brother of informant, Satendra Kumar, and started to abuse, on which, his brother, Manoj Kumar, chased them having lathi in his hand then they fled away. After some times, they again came by forming unlawful assembly and started to abuse to his own brother, Santosh Kumar. When his own brother, Santosh Kumar, made protest then on the order of Sunil Prasad, Dayanand Yadav shot fire at the head of his own brother, Santosh Kumar. When the informant came there to save his own brother, Santosh Kumar, then they also caused injury to him. Thereafter, his own brother, Santosh Kumar, was rushed at Sadar Hospital, Biharsharif, where the Doctor declared him dead.

Learned counsel appearing for the petitioner no.1, Kamlesh Prasad, submits that petitioner no. 1 is the co-villager of informant and he has falsely been implicated in the present



case without imputing any motive for gathering of the petitioner no.1 along with other co-accused. Further submission is that while petitioner no. 1 is named in the FIR but no specific overt act has been attributed against him. In fact, on the order of co-accused, Sunil Prasad, Dayanand Yadav shot fire at the head of Santosh Kumar, own brother of the informant. Further submission is that petitioner no. 1, Kamlesh Prasad, has no criminal antecedent.

Having regard to the facts and circumstances of the case, let petitioner no. 1, Kamlesh Prasad, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Nalanda, in connection with Rahui P.S. Case No. 239 of 2020, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Rajendra Kumar Mishra, J)

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