

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8487 of 2022

Arising Out of PS. Case No.-205 Year-2019 Thana- BHORE District- Gopalganj

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1. ARUN KUMAR MISHRA @ PAPPU MISHRA SON OF LATE RAMAYODHYA MISHRA R/O VILLAGE- KHAJURAHA MISHRA, P.S.- BHORE, DISTRICT- GOPALGANJ
 2. SANJAY KUMAR MISHRA @ BABLU MISHRA SON OF RAJENDRA MISHRA R/O VILLAGE- KHAJURAHA MISHRA, P.S.- BHORE, DISTRICT- GOPALGANJ

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Senior Advocate
		Mr. Sanjeev Kumar, Advocate
For the Opposite Party/s	:	Mr. Navin Kumar Pandey, APP
For the Informant	:	Mr. Arun Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 13-12-2022 Heard learned counsel appearing on behalf of the petitioners and learned counsel appearing on behalf of the State as well as learned counsel for the informant.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioners seek bail in connection with Bhore P.S. Case No. 205 of 2019 registered for the offence under Sections 302, 404, 120(B) and 34 of the Indian Penal Code and Section 27 of the Arms Act.

The accused/petitioners are named in the F.I.R. and are in custody since 21.10.2021.



The allegation against the petitioners is to commit the murder of the brother of informant along with other co-accused persons by resorting indiscriminate firing with advance features firearm weapons, causing multiple firearms injuries, resulting death of brother of informant on spot, due to previous enmities.

Learned senior counsel, Shri P. K. Shahi, while appearing on behalf of the petitioners submitted that both the petitioners have been falsely implicated in the present case, for the reason that the claim of informant as an eye-witness of the occurrence is appearing doubtful on its face. Learned senior counsel relying heavily on one bite of informant given to local News channel stating thereof that he was not available at the time of occurrence. Subsequent on the basis of said video clip, a Miscellaneous petition was filed before Judicial Magistrate, 1st Class, Gopalganj, asking for voice sample for FSL examination, where despite of direction of the learned Court on repeated occasions, the voice test was not made available by informant, drawing a negative presumption against him in favour of submission that informant is not the eye-witness. It is further submitted by learned senior counsel that presence of both the petitioners, together at place of occurrence is also appearing doubtful, as per their mobile locations, which is mentioned in



paragraph no.7 and 29 of the case diary. While concluding the argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by learned counsel for the informant, while opposing the prayer of bail, submitted that mere on the ground of video clip of local news channels, the presence of informant cannot be looked with tented glass. It is submitted that prohibited firearms were used in committing crime, where, postmortem report shows multiple firearms injuries, corroborating with the version of informant. Learned counsel for the informant also submitted that the mobile tower locations of both the petitioners suggests that they were available at place of occurrence. It is also submitted that bail petition of similarly situated co-accused person has already been rejected by one of the learned co-ordinate Bench of this Court through Cr. Misc. No. 59680 of 2021 dated 29.03.2022.

In view of the submissions, as made above and by taking note of mobile tower location, suggesting that petitioners were available at the place of occurrence, having specific allegation of firing against both the petitioners, causing death of brother of informant at the spot, this Court is not inclined to



grant bail to the petitioners, at present.

Accordingly, the prayer of bail of the petitioners is rejected herewith.

Learned Trial Court is directed to proceed with the matter, by taking it on board, on daily basis, so as trial may conclude within 06 (six) months from the date of receipt of a copy of this order. Failing which, petitioners may renew their prayer of bail, if so advised.

Superintendent of Police, Gopalganj, is directed to produced the charge-sheeted witnesses, as and when directed by the learned Trial Court, for expeditious disposal of trial, within specified time period, as directed above.

Office is directed to sent a copy of this order to Superintendent of Police, Gopalganj, for compliance.

(Chandra Shekhar Jha, J)

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