

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16283 of 2022

Arising Out of PS. Case No.-399 Year-2021 Thana- MURLIGANJ District- Madhepura

RAJESH KUMAR S/O DHIRENDRA PRASAD YADAV R/o village-
Vishnupur, Ward No. 12, P.S.- Murliganj, District- Madhepura

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

with

CRIMINAL MISCELLANEOUS No. 27080 of 2022

Arising Out of PS. Case No.-399 Year-2021 Thana- MURLIGANJ District- Madhepura

PRATUSH KUMAR @ PRATUSH SON OF SHASHI PRASAD YADAV
R/O VILLAGE- NOULAKHI, P.S.- JANKINAGAR, DISTRICT- PURNEA

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 16283 of 2022)

For the Petitioner/s : Mr.Uday Chand Prasad, Advocate

For the Opposite Party/s : Mr.Pramod Kumar Pandey, APP

(In CRIMINAL MISCELLANEOUS No. 27080 of 2022)

For the Petitioner/s : Mr.Surya Narayan Yadav, Advocate

For the Opposite Party/s : Mr.Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 28-09-2022 Heard Mr. Uday Chand Prasad, learned counsel
for the petitioners and learned APP for the State.

Let the defect(s), if any, as pointed out by the office
be removed within four weeks.

The case is registered under Sections 394, 302/34
of the Indian Penal Code and 27 of the Arms Act in



connection with Murliganj Police Case No. 399 of 2021.

As per the prosecution story, the allegation is that when the informant was moving towards Village Gangaur on a pickup van with Kirana items, they were intercepted by a Maruti Alto car from which four accused persons came out and after taking cash of Rs. 3000/- from the informant, when they tried to snatch the money from Sunil Kumar Keshri, he objected, whereafter one of the co-accused opened fire who subsequently died. Accordingly, the FIR was instituted.

In this case, case diary was called for on 13.7.2022.

Learned counsel for the petitioners, Mr. Uday Chand Prasad submits that although they do not have criminal antecedent, the role of killing does not attribute to them inasmuch as, it has been attributed to Dharmendra Kumar. It is his further submission that both the petitioners are in custody since 18.11.2021 and as such they deserve bail.

Per contra, Mr. Jitendra Kumar Singh, learned APP submits that it has come from para-20 of the case diary that the role of killing has been attributed to Dharmendra Kumar and after his confessional statement, the alleged pistol used in crime has since been recovered from the house of the maternal uncle of the accused Dharmendra Kumar which



finds place in para-23 of the case diary. He further submits that para-43 of the case diary incorporates the post-mortem report which shows injury due to firearm and further the supplementary case diary in para-11 incorporates the charge-sheet which has been submitted under Sections 394, 302 of the Indian Penal Code as also under Arms Act. It is his further submission that so far as the complicity of the petitioners are concerned, their confessions are also in the case diary.

Taking into account the fact that the role of killing has been attributed to Dharmendra Kumar and upon his confession, the alleged pistol has also been recovered, the petitioners are in custody since 18.11.2021 and as per averment made therein, no T.I. parade has been done and the charge-sheet stands submitted, this Court is inclined to grant them the privilege of bail after framing of charges with conditions in view of the fact that they have criminal antecedents.

Let the petitioners be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-2, Madhepura in connection with Murliganj Police Case No. 399 of 2021



subject to the following conditions:-

(i) one of the bailor should be the family member of the petitioners, who shall provide official document to show their bona fide;

(ii) the petitioners shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail by the Trial court itself;

(iii) the petitioners shall leave the district of Madhepura for a period of two months after providing name and address and police station of their places of stay during the said period and they shall be duty bound to visit the police station (where they stay) every week to mark their attendance;

(iv) upon return to their district, they shall visit the concerned police station every fortnight for the next six months;

(v) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of their bail bonds;

(vi) the petitioners shall desist from committing any criminal offence again failing which the State shall be at



liberty to take steps for cancellation of their bail bonds.

With the aforesaid observations, the bail application
is allowed.

(Rajiv Roy, J)

Ravi/Ajay Singh

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