

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16989 of 2022

Arising Out of PS. Case No.-55 Year-2022 Thana- KOILWAR District- Bhojpur

1. Raj Kumar Bind, S/o Rama Shankar Bind.
2. Triloki Bind @ Triloki Kumar Bind @ Triloki Kumar Bind S/o Krishna Bind @ Krishna Bin.
Both are Resident of Village - Pachrukhiya Kala, P.S. - Koilwar, District - Bhojpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bhaskar Shankar, Adv.

For the Opposite Party/s : Mr.Jagdhara Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

- 3 29-08-2022 Heard Mr.Bhaskar Shankar, learned counsel for the petitioner and Mr. Jagdhara Prasad, learned APP, who represent the State.

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

The petitioner is in judicial custody in connection with Koilwar P.S. Case No. 55 of 2022 for the offences under Sections 302, 147, 148 and 149 of the Indian Penal Code and Section 27 of the Arms Act.

Lovely Sharma, the daughter of the deceased Sanjit Kumar has lodged the FIR on 22.01.2022 at 1:30 A.M. alleging therein that :



(i) on 21.01.2022 at 10:00 A.M.
her father Sanjit Kumar (deceased) had gone
to Balu Ghat, Kamlau Chak Ghat, Koilwar in
connection with 'Bhumi Pujan' but failed to
return in the evening;

(ii) subsequently, she got
knowledge from the police that two people
have been killed due to gun shot injuries and
the dead bodies have been kept at Sadar
Hospital, Ara;

(iii) accordingly, she reached
Sadar Hospital, Ara and identified her
father's body;

(iv) further she got knowledge
from her father's friend who were
accompanying him that 25 named accuseds
and 30-35 unknown accused persons resorted
to indiscriminate firing leading to gun shot
injuries in the stomach of her father and the
head of her father's friend, Durgesh
(deceased) who died on the spot;

(v) accordingly, the present FIR



was lodged against 26 named accuseds and
30-35 unknown accused persons.

Three petitioners are before this Court, namely, Ram Shankar Bind @ Rama Shankar Bind, Yogendra Bind and Guput Bind, who are named accuseds at Serial Nos. 9, 7 and 6 respectively.

In this case, case diary was called for on 22.07.2022 which has since been received and has been perused by learned APP for the State.

Learned counsel for the petitioners submit that a bare perusal of the post-mortem report shows that both the deceased have received one gun shot injury each inasmuch as while on Sanjit Kumar, one gun shot injury on the stomach has been found, on Durgesh, the one single gun shot injury has been found on head, both proved fatal and resulted into their death. He as such submits that against the two gun shot injuries, the allegation of indiscriminate firing against 26 named accused persons and 30-35 unknown accused persons raises suspicion about the motive of the informant in implicating innocent persons in the backdrop of the fact that she was not an eye witness to the occurrence and got the knowledge from her father's friends.



With the help of the case diary, learned counsel further submits that a bare perusal of paragraph no. 219 of the case diary shows that Dy. Superintendent of Police in his supervision note considering the naming of Binay Rai and Md. Alim Khan had directed the Investigating Officer to verify their roles before taking decision in the matter. He further submitted that Investigating Officer in a haste submitted charge sheet against the accused persons to beat the 90 days mandatory period envisaged under Cr.P.C.

Learned Senior Counsel further submits that how the innocent persons have been implicated in this case can be best seen from the two instances that had been recorded in the case diary at page nos. 226 and 227 and 301. As per the page nos. 226 and 227, the witnesses have stated about one of the accused namely, Alim Khan, who is 75 years old and as per the C.C. Tv. Footage, he after offering '*Namaj*' returned to his home and remained inside home at the time of occurrence. He further submits that para 301 is dedicated to one Binay Rai, who is serving the Indian Army was at the relevant time posted at Arunachal Pradesh but he has also been named as an accused in the present case. He as such submits that taking into account the two instances, it can be easily concluded that the informant, who



was not an eye witness to the occurrence have lodged this FIR to settle score with everyone with whom she or her family had any problem.

He reiterates that against the indiscriminate firing allegation against the accused persons including the three petitioners herein, only two gun shot injuries in the post-mortem report clearly shows that the petitioners herein deserve bail in the backdrop of the fact that immediately after the occurrence, they were arrested from their respective homes on the said date itself on 22.01.2022 and the charge sheet stands submitted. The last submissions of the counsel for the petitioner is that the similar situate co-accuseds namely Ram Shankar Bind @ Rama Shankar Bind, Yogendra Bind and Guput Bind have since been released on bail vide Cr. Misc. No.17621/2022 on 23.08.2022.

Let the order dated 23.08.2022 passed in Cr. Misc. No.17621/2022 be kept on record.

Per contra, learned APP for the State submits that there is allegation of indiscriminate firing against all the accused persons including the petitioners herein causing death of two persons and as such, they do not deserve bail.

This Court has gone through the FIR, the different



paragraphs of the case diary, the post-mortem report and finds favour with the submissions put forward by the learned Senior counsel for the petitioners. There has been unfortunate killing of two innocent persons but the Court is duty bound to see the allegations/false implication aspects.

Taking into account the aforesaid facts including the fact that omnibus allegations against accused persons including the petitioners herein is of firing and they are in custody since 15.02.2022, charge sheet stands submitted similar situate persons have been granted bail vide Cr. Misc. No.17621/2022 and ultimately they have to face the trial, this Court is inclined to grant them privilege of bail.

Let the petitioners be released on bail on furnishing bail bond of Rs. 15,000/- (Fifteen Thousand) with two sureties of like amount each to the satisfaction of Chief Judicial Magistrate, Bhojpur at Ara in connection with Koilwar P.S. Case No. 55 of 2022, subject to the following conditions.

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show his/her *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 reasons will entail their cancellation of bail by the Trial Court itself;

(iii) they shall appear before the concerned police station every months for one year to mark their presence;

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

(v) 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.

Nothing observed in this bail application shall be taken into consideration during the course of the trial as the same has been observed for considering the bail application of the petitioners herein.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

Prakash Narayan /-

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