

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26537 of 2022

Arising Out of PS. Case No.-232 Year-2021 Thana- BIHARIGANJ District- Madhepura

1. Butan Mahato @ Butan Mahto, S/o Budhan Mahato @ Budhan Mahato, R/o village- Gangaura, Ward No. 02, Mohanpur Chaumukh, P.S.- Bihariganj, District- Madhepura
2. Ajeet Kumar, S/o Butan Mahato @ Butan Mahto, R/o village- Gangaura, Ward No. 02, Mohanpur Chaumukh, P.S.- Bihariganj, District- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanchay Srivastava, Advocate Mr. Ravi Prakash, Advocate Mr. Sushant, Advocate
For the Opposite Party/s :		Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 23-08-2022 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Sanchay Srivastava, learned counsel for the petitioners and learned APP for the State.

The petitioners seek regular bail, who are in custody in connection with Bihariganj P.S. Case No. 232 of 2021 registered for the offences punishable under Sections 307, 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, it is alleged that on



11.10.2021, the husband and brother-in-law of the informant had gone block office and in the evening while the husband of the informant was returning, four unknown persons came on two motorcycles, chased and shot him. It is also alleged that while her husband was alive, he called his brother and specifically stated that four unknown persons shot him and fled away, whereupon the family members rushed to the place of occurrence and took him to the nearest hospital, where he died.

Learned counsel appearing on behalf of the petitioners submits that admittedly the F.I.R. has been instituted against four unknown persons and it is also the case of the prosecution that four unknown persons shot fire upon the husband of the informant. It is next submitted that the petitioners are neighbours of the informant and her deceased husband and had the petitioners been present at the place of occurrence, their names would have been certainly disclosed by the deceased (husband of the informant). It is next submitted that the false implication of the petitioners is also evident from the fact that on the alleged date and time of occurrence, petitioner no.2 was giving his examination of B.A. Part-I and in support of his submission, the Admit card along with the examination attendance sheet dated 11.10.2021 is brought on record as



Annexure-3 to the application. It is next submitted that petitioner no.1, who happens to be the father of petitioner no.2 was also not present at the place of occurrence. In support of the aforesaid facts, a certificate/letter was also issued by the Ward Member of the concerned ward situated in Purnia district to the effect that the petitioner no.1 was present at Purnia in relation to his work. It is lastly submitted that the petitioners are in custody since 22.12.2021, having fair antecedent, and their names have only been implicated, on account of past animosity.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the name of the petitioners have been surfaced on the disclosure made by the father of the deceased.

Having regard to the submissions made on behalf of the parties and considering the fact that the name of the petitioners have not been disclosed by the deceased (husband of the informant) while he was alive and further in support of the submissions made on behalf of the petitioners that they were not present at the place of occurrence, documents have been brought on record, and moreover the petitioners are in custody since 22.12.2021, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand)



each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Udakishunganj, Madhepura in connection with Bihariganj P.S. Case No. 232 of 2021, subject to the condition that one of the bailors will be the close relatives of the petitioners with further conditions which are as follows:-

(i) The petitioners will cooperate in conclusion of the trial.

(ii) They will remain physically present on each and every date of trial till disposal of the case.

(iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(Harish Kumar, J)

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