

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30988 of 2022

Arising Out of PS. Case No.-19 Year-2019 Thana- SAKRA District- Muzaffarpur

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BDO @ RAHUL @ SONU @ RAHUL KUMAR @ SONU KUMAR Son of
Madan Mohan Thakur Resident of Village - Dwarikapur, P.O.- Itaha, P.S.-
Sakara, Dist.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 29520 of 2022

Arising Out of PS. Case No.-19 Year-2019 Thana- SAKRA District- Muzaffarpur

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DHIRENDRA THAKUR SON OF SRI SURENDRA PRASAD THAKUR
RESIDENT OF VILLAGE- DWARIKAPUR, POLICE STATION-
SAKARA, DISTRICT - MUZAFFARPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 33616 of 2022

Arising Out of PS. Case No.-19 Year-2019 Thana- SAKRA District- Muzaffarpur

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RITESH KUMAR THAKUR @ NITESH KUMAR THAKUR Son of Umesh
Thakur Resident of Village - Dwarikapur, P.O.- Itaha, P.S.- Sakara, Dist.-
Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 30988 of 2022)

For the Petitioner/s : Mr.Prem Kumar

For the Opposite Party/s : Mr.Anuj Kumar Shrivastava

(In CRIMINAL MISCELLANEOUS No. 29520 of 2022)

For the Petitioner/s : Mr.Prem Kumar

For the Opposite Party/s : Mr.Anuj Kumar Shrivastava

(In CRIMINAL MISCELLANEOUS No. 33616 of 2022)

For the Petitioner/s : Mr.Prem Kumar



For the Opposite Party/s : Mr.Anuj Kumar Shrivastava

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

6 18-10-2022 The learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

All the petitions are heard together and are being disposed of by this common order as they arise out of the same police station case number.

Heard learned counsel for the petitioners and the State.

Petitioners seek regular bail in Sakara P.S Case No. 19 of 2019 registered for the offences punishable under Sections 302, 307, 341, 323, 120B/34 of the Indian Penal Code and 27 of the Arms Act.

As per allegation, on the alleged date and time of occurrence, informant along with his wife and his brother-in-law (Dipu Kumar) went to customer service center to withdraw the money and after withdrawing money, they went to nearby hotel for breakfast where three unknown persons were standing, one person among them fired at the informant and his brother-in-law as a result of which they became injured and they were taken to hospital where doctor declared Dipu Kumar dead and the



informant was referred to SKMCH, Muzaffarpur for better treatment and accused persons fled away.

The main submissions advanced by learned counsel Shri Prem Kumar appearing for the petitioners are that petitioners are not named in the FIR, as per allegation appeared against the petitioners during course of investigation petitioners were alleged to have fired at the deceased as well as injured but on the body of the deceased only one gun shot injury was found and the prosecution failed to explain that out of the petitioners who fired at the deceased, there is no material/evidence to show enmity between petitioners and the deceased and during course of investigation implicity of co-accused Ram Naresh Rai has come out who has been granted bail by a coordinate bench of this court vide order passed in Cr. Misc. no. 19980/2019 and details of witnesses upon which the court below placed reliance whose statements are mentioned in the case diary have not been given in the FIR and hence, said witnesses can not be deemed to be reliable, there is no direct evidence against the petitioners and only on the basis of suspicion, petitioners have been made accused.

Sri Anuj Kumar Srivastava, learned APP appearing for the State has opposed the prayer for bail of the petitioners



and submitted that the present case relates to murder and attempt to murder and during course of investigation two witnesses mentioned at paras 41 and 42 of the case diary have revealed the presence of the petitioners at the tea-stall where deceased and injured were taking breakfast and case of these petitioners does not stand on similar footing with co-accused Ram Naresh Rai as he was granted bail after considering his long custody period.

Heard both sides, perused the FIR and the case diary of the case. FIR has been registered against unknown persons. Prosecution has mainly placed reliance on the statements of two witnesses mentioned at paras 41 and 42 of the case diary in respect of the involvement of the petitioners in the alleged crime but there is no details of said witnesses in the FIR and they appear to be chance witnesses but regarding their appearance at the alleged place of occurrence by chance at the time of alleged occurrence prosecution has not drawn attention of this court about any cogent material in the case diary justifying the presence of said witnesses at place of occurrence and moreover, from perusal of the entire case diary, I do not find any motive of the petitioners to commit the alleged occurrence of murder and attempt to murder and the prosecution has also not shown



reason for which petitioners committed murder and during course of investigation a suspicion has been raised against the co-accused Ram Naresh Rai who has been granted bail vide order passed in the above mentioned criminal miscellaneous case, all these petitioners have clean antecedent.

Considering all the above discussed facts, in the opinion of this court, a lenient approach can be taken in respect of the petitioners. Let the petitioners be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Addl. Sessions Judge XI, Muzaffarpur in Sakara P.S Case No. 19 of 2019.

(Shailendra Singh, J)

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