

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43576 of 2021

Arising Out of PS. Case No.-149 Year-2021 Thana- SITAMARHI District- Sitamarhi

KUMAR SHIVAM @ SHIVAM KUMAR S/O LATE VINOD BIHARI
MISHRA R/o Mohalla- Laxmana Nagar Near Sidha Ashram, Ring Bandh
Ward No. 16, P.S.- Sitamarhi, District- Sitamarhi

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 48315 of 2021

Arising Out of PS. Case No.-149 Year-2021 Thana- SITAMARHI District- Sitamarhi

KUMAR SATYAM S/o Late Vinod Bihari Mishra Resident of- Laxman
Nagar, Ward No. 16, Ring Bandh, Near of Siddh Aashram Temple, P.S.-
Sitamarhi, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 43576 of 2021)

For the Petitioner : Mr. P.K. Shahi, Sr. advocate
M/s. Ashhar Mustafa, Vikash Kr. Jha, Abu Nasar
Tarique Shamim

For the State : Mr. Umeshanand Pandit

For the Informant : M/s Awadhshesh Kumar Singh & Shashank Sekhar

(In CRIMINAL MISCELLANEOUS No. 48315 of 2021)

For the Petitioner/s : Mr. Ritesh Kumar Narain Singh

For the Opposite Party/s : Mrs. Madhuri Lata

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 21-07-2022 Since both the anticipatory bail petitions arise out of

same P.S. case they have been heard together and are being

decided by this common order.

Heard learned Sr. counsel for the petitioners, learned



A.P.P. for the State and the learned counsel for the informant.

Petitioner in the present case is seeking anticipatory bail in connection with Sitamarhi P.S. Case No. 149 of 2021 registered for the offence punishable under Section 147, 149, 447, 504, 307, 302 of the Indian Penal Code and Section 27 of the Arms Act.

As per the prosecution case five named accused persons, including these petitioners, and 15 unknown persons came at the gate of the temple, called out the informant and when he came near the gate, accused Kumar Satyam (petitioner of Cr. Misc. No. 48315/ 2021) caught hold of him by his collar and started pulling out. It is alleged that co-accused, Nirmala Mishra, instigated the accused not to leave the informant whereafter all the accused persons allegedly indulged in giving Lathi blow and iron rod blow. The allegation of firing has been made against accused Shivam (petitioner of Cr. Misc. No. 43576/ 2021) and Kumar Satyam who have allegedly fired four rounds from their pistol causing injury to the wife of the informant and the Mahanth of the temple. In the said firing Mahanth Hari Narayan Das @ Hari Das died.

Learned Sr. counsel for the petitioners submits that petitioners have been maliciously roped in the case due to



oblique motive. The allegation against these petitioners does not find any corroboration from medical evidence. As per post mortem report deceased sustained two injuries, one by sharp penetrating object and other wound was caused by hard and blunt substance which goes to show that either informant is not an eye witness of the occurrence or he registered the FIR with manufactured, exaggerated and false accusations. It is further submitted that during the course of investigation, in order to fill up the lacunae, wife of informant in her re-statement, recorded by the I.O. in paragraph 98 of case diary on 18.04.2021, changed the prosecution version by stating that these petitioners assaulted the deceased by means of iron rod. This belated exercise was evidently done to repair the glaring falsity of the prosecution case.

However, learned counsel for the state and the informant vehemently opposed the prayer for anticipatory bail and submitted that informant, being eye witness of the occurrence, has specifically named these petitioners in the FIR and has categorically stated that all the accused persons, including these petitioners assaulted the deceased with Lathi, Danda and iron rod, which is apparent from perusal of the FIR itself.



Considering the submissions made on behalf of the parties and the materials available on record, it appears that there is specific and direct allegation against these petitioners that they along with other accused persons assaulted the deceased and wife of the informant.

Taking into consideration the facts aforesaid, I am not inclined to enlarge the petitioners on anticipatory bail. Accordingly, the same is rejected.

(Prabhat Kumar Singh, J)

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