

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44562 of 2022

Arising Out of PS. Case No.-335 Year-2021 Thana- HARNAUT District- Nalanda

1. SHIV SHAMBHU Son of Baijnath Singh Resident of Village - Adarsh Nagar, P.S.- Harnaut, District - Nalanda, Biharsharif.
2. Ashok Kumar Son of Baijnath Singh Resident of Village - Adarsh Nagar, P.S.- Harnaut, District - Nalanda, Biharsharif.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dr. Satyendra Kumar Srivastava, Advocate
For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, A.P.P.
Mr. Sanjay Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 15-12-2022 Heard learned counsel for the petitioners, learned counsel for the informant and learned A.P.P. for the State.

The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 147, 148, 149, 341, 307 and 504 of the Indian Penal Code & Section 27 of the Arms Act.

Learned counsel for the petitioners submits that he has filled a supplementary affidavit on 01.12.2022 in which it has been clearly stated that petitioners have antecedent of two cases.

The informant alleges that accused person including the petitioners along with 5-6 unknown accused came and petitioner no. 1 fired at his grandson but missed, thereafter,



petitioner no. 2 fired from pistol at the gate of the house of the informant and Bablu tried to break the door with rifle, further on alarm they fled.

Learned counsel for the petitioners submits that petitioners have been falsely implicated in the present case, it is next submitted that allegation of firing is ornamental only with a view to give serious colour to the case, it is next submitted that police submitted Final Form No. 575 of 2021 dated 23.09.2021 Annexure-2 to the anticipatory bail application in favour of the petitioners finding the allegation to be false.

Learned counsel for the petitioners next submits that the learned Magistrate differing with the police report took cognizance, it is next submitted that when one Investigating Agency has found the petitioners to be innocent and no material transpired during the course of investigation connecting them with the offence then based on the same material, if cognizance is taken and the petitioners are sent to custody that would amount to travesty of justice for the present.

Learned A.P.P and learned counsel for the informant oppose the bail application but are not able to meet the submission of the learned counsel for the petitioners that police after investigation submitted Final Form.



Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Harnaut P.S. Case No. 335 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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