

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.46180 of 2022

Arising Out of PS. Case No.-322 Year-2020 Thana- GAUTAMBUDHNAGAR District-
Siwan

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1. ZAKIR HUSSAIN SON OF LATE ABDUL KADIR R/O VILLAGE-
BASILPUR, P.S.- G.B. NAGAR (TARWARA), DIST.- SIWAN
 2. MD. NAEAM SON OF LATE MD. SARIF R/O VILLAGE- BASILPUR,
P.S.- G.B. NAGAR (TARWARA), DIST.- SIWAN
 3. MD. SALIM SON OF LATE MD. SARIF R/O VILLAGE- BASILPUR,
P.S.- G.B. NAGAR (TARWARA), DIST.- SIWAN
 4. MD. KALIM SON OF LATE MD. SARIF R/O VILLAGE- BASILPUR,
P.S.- G.B. NAGAR (TARWARA), DIST.- SIWAN
 5. MD. HALIM SON OF LATE MD. SARIF R/O VILLAGE- BASILPUR,
P.S.- G.B. NAGAR (TARWARA), DIST.- SIWAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Malay Kumar Choudhary, Advocate
For the Informant : Mr.Javed Aslam, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 16-12-2022 Heard the learned counsel for the petitioners and the
learned A.P.P. for the State.

The petitioners seek regular bail in connection with
Sessions Trial No. 331 of 2022 arising out of G.B. Nagar P.S.
Case No. 322 of 2020 for the offence registered under Sections
302, 120(B)/34 of the Indian Penal Code and Section 27 of the
Arms Act.

The case of the prosecution, in brief, according to the
informant, is that the son of the informant along with the son of
the petitioner no. 1 were talking to each other while they were
standing near the mosque on 05.12.2020 at about 7:00 P.M. and
after some time at around 7:45 P.M. sound of gun shot firing
was heard, whereafter the villagers came to the place of



occurrence, whereupon the son of the petitioner no. 1, namely, Sahid Ali told them that two unknown persons had murdered the son of the informant.

The learned counsel for the petitioners has submitted that the petitioners are innocent, have been falsely implicated in the present case, are having clean antecedent and they are languishing in custody since 23.03.2022. The learned counsel for the petitioners has submitted that a title suit is pending adjudication amongst the parties which has resulted in false implication of the petitioners. It is also submitted that the co-accused person, namely, Shahid Ali, who is the son of the petitioner no. 1 and is stated to be present at the place of occurrence, has already been granted bail by a Co-ordinate Bench of this Court vide order dated 29.11.2021 passed in Criminal Misc. No. 27738 of 2021. It is next submitted that neither the petitioners are named in the F.I.R. nor they were present at the place of occurrence, hence they do not have any complicity in the matter.

Per contra, the learned A.P.P. for the State as also the learned counsel for the informant Shri Javed Aslam have vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the



case, considering the submissions made by the learned counsel for the petitioners and taking into account the materials available on record apart from the fact that the petitioners are not named in the F.I.R., they are not alleged to be present at the place of occurrence and moreover the co-accused persons namely Shahid Ali, who was present at the place of occurrence, has already been granted bail by a Co-ordinate Bench of this court, I do not find any reason to detain the petitioners in custody any further, hence I deem it fit and proper to direct for release of the petitioners herein on regular bail.

Accordingly, the petitioners, above named, are directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-VII, Siwan in connection with Sessions Trial No. 331 of 2022 arising out of G.B. Nagar P.S. Case No. 322 of 2020.

(Mohit Kumar Shah, J)

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