

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55790 of 2022

Arising Out of PS. Case No.-98 Year-2022 Thana- KHARIK District- Bhagalpur

1. SUBHASH CHANDRA SHARMA @ SUBHASH SHARMA SON OF LATE CHATURI SHARMA R/O VILLAGE- CHAKRAMI, P.S.- BIHPUR, DISTT.- BHAGALPUR
2. LEELA DEVI WIFE OF SUBHASH SHARMA R/O VILLAGE- CHAKRAMI, P.S.- BIHPUR, DISTT.- BHAGALPUR

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raghwendra Pratap Singh
For the Opposite Party/s : Mr.Ajit Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

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

The petitioners seek bail in connection with Kharik P.S. Case No. 98 of 2022 registered for the offences punishable under Sections 302, 307, 120(B)/ 34 of the Indian Penal Code and Section 27 of the Arms Act.

The informant Sanjay Sharma narrated the story of prosecution case that informant's father sustained firearm injury from the firing made by co-accused Chandan Sharma and his other friends and on account of said injury father of the informant died. It is further alleged that the motive behind the occurrence is to withdraw the case which was filed against



Chandan Sharma and Premlata Devi. It is further alleged that accused persons were threatening to kill for withdrawing the case. It is further alleged that petitioners and others under conspiracy concertedly committed the murder of informant's father.

Learned counsel for the petitioners submits that petitioners are innocent and have not committed any offence rather they have falsely been implicated in the case. As per version of the prosecution story co-accused Chandan Sharma and his three friends and some unknown persons made firing on the father of the informant who was sitting on the middle seat of auto-rickshaw. It is further submitted that no specific overt-act has been attributed against the petitioners. They have been falsely implicated just because they are father and mother of co-accused Chandan Sharma. It is further submitted that accused persons were threatening to withdraw Bhawanipur P.S. Case No. 273 of 2018 which was lodged by Shashidhar Sharma- father of informant (since deceased) for which a Sanha has been registered with respect to said threatening but in the aforesaid sanha, name of petitioners were not found. Petitioner no. 1 is aged about 69 years and is a retired army man and petitioner no. 2 is aged about 62 years and they are in custody since



14.04.2022. Petitioners bear no criminal antecedent. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioners by referring that petitioners are conspirators of the alleged occurrence.

Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of petitioners, no specific overt-act has been attributed against the petitioners as per version of the prosecution story, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioners above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-1st, Naugachia, Bhagalpur in connection with Kharik P.S. Case No. 98 of 2022, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.



(ii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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