

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.71957 of 2021

Arising Out of PS. Case No.-683 Year-2021 Thana- SITAMARHI District- Sitamarhi

1. Santosh Kumar, Son of Bhola Mahto.
 2. Sandeep Kumar Son of Bhola Mahto.
- Both are residents of Village- Belahiya, P.S.- Sursand, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Niranjana Kumar, Advocate Mr. Kumar Kishan, Advocate
For the Informant	:	Mr. Rudrauk Shivam Singh, Advocate
For the State	:	Mr. Bharat Bhushan, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

- 3 25-07-2022 Heard learned counsel for the petitioner, the informant and Mr. Bharat Bhushan learned APP for the State.

Let the defect(s) be removed within four weeks of the complete start of the physical Court in normal course.

The two petitioners are in judicial custody in connection with Sitamarhi (Mehsaul O.P.) P.S. Case No.683 of 2021 instituted under Sections 302, 307, 120B, 379 and 34 of the Indian Penal Code and Section 27 of the Arms Act.

The allegation in the FIR is as follows:

(i) It is alleged that on 24.08.2021 at 11:45 PM the informant was coming from his Hospital situated at Shankar Chowk to his Clinic Rajopatti with his driver Prabhash are two staffs namely, Baby and Suresh, counter staff Bably Kumari along with his wife Sabnam Ara at his Clinic situated in Rajopatti at 12:00 hours in the



night. When the informant along with others reached behind his Clinic near parking he saw four persons who all of a sudden started firing upon them. The informant sustained bullet injury on chest, hand and knee while counter staff Bably Kumari was hit by bullets and died on the spot. Further allegation is of snatching of his licensed revolver. The informant further alleged that his first wife, Seema Sinha and nephew namely Santosh Kumar (petitioner no.1) and Sandeep Kumar (petitioner no.2) as also her boyfriend are involved in the crime.

Learned counsel for the petitioners submit that they are own nephew of the informant and had almost no role to play in the alleged occurrence. It is further submitted that upon knowledge of the alleged occurrence, petitioner no.1 visited the hospital and was arrested. Later Sandeep Kumar, (the petitioner no.2) was also arrested and they are in custody since 26.08.2021 (as stated in paragraph-10 of the bail application). Learned counsel for the petitioners further submit that so far as the petitioner no.2 is concerned, he was with his uncle and was taking care of the construction of his hospital and has almost no role to play in the present case.

Learned counsel for the informant submitted that the petitioner no.1, Santosh Kumar has made a confession in which the entire theory has been narrated which led to the ultimate killing of Bably Kumari and the injury to the informant.



Taking into account the aforesaid fact that there has been killing of a young lady and injury to the informant-Doctor and the role of petitioner no.1 has come during the course of investigation by the police, this Court for the present is not inclined to grant him privilege of bail, which is accordingly rejected.

So far as the petitioner no.2 is concerned, no role has been attributed to him save and except that he is nephew of the informant and brother of the petitioner no.1. Learned counsel for the petitioners submit that he is in jail since 26.08.2021 and has no criminal antecedent.

Taking into account the aforesaid fact that the petitioner no.2, namely, Sandeep Kumar stands charge-sheeted and is in custody since 26.08.2021 is directed to be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each in connection with Sitamarhi (Mehsaul O.P.) P.S. Case No.683 of 2021 to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi, subject to following conditions:

(i) one of the bailor should be the family member of the petitioners, who shall provide official document to show his/her bona fide;

(ii) the petitioners shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reasons will entail cancellation of their bail by the



Trial court itself;

(iii) the petitioner shall appear before the concerned police station every month for next six months to mark their presence;

(iv) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of their bail bonds.

So far as the petitioner no.1 Santosh Kumar is concerned, his bail application is rejected while the bail application of the petitioner no.2, Sandeep Kumar is allowed on bail.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

Prakash Narayan /-

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