

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22226 of 2023

Arising Out of PS. Case No.-699 Year-2022 Thana- BARH District- Patna

1. Roshan Kumar, Son of Satish Gopal @ Satish Paswan,
2. Monu Kumar, Son of Dayanand Verma @ Dayanand Prasad,
Both are Residents of Village - Badki Jamuni Chak, P.S.- Barh, District - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 19-05-2023 Heard learned counsel for the petitioners and learned
APP for the State.

2. In the present case, the petitioners seek bail in connection with Barh P.S. Case No. 699 of 2022, registered for the alleged offence under Sections 341, 323, 329, 307, 504/34 of the Indian Penal Code and Section 27 of the Arms Act. Later on Section 302 IPC was also added.

3. As per prosecution case, the petitioners and other two co-accused persons came to the house of the informant and demanded Rs.50,000/- as extortion money. When the informant refused, they started assaulting him and the informant entered into his house to save himself. On alarm being raised, the wife



of the informant started looking out from the window of her house and the allegation against the co-accused Sani Thathera and Bikash Kumar is that they opened fire from their respective pistols and the shots hit the wife of the informant. Further, allegation against the petitioners is that they also opened firing. The occurrence took place in the background of some earlier quarrel between the parties. Later on, the wife of the informant succumbed to her injuries.

4. The learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. There is no specific allegation against the petitioners that they opened fire upon the wife of the informant. Though the informant improvised his statement after the death of her wife and named four persons, who opened fire upon the wife of the informant, but the same is only improvisation. Moreover, the petitioners were never the part of the occurrence and as a matter of fact no such occurrence has ever taken place. Even during investigation, no material came up against the petitioners to show their complicity in the crime. In any case, only allegation against the petitioners is that they opened fire in air, but no one received injury. The petitioner no.1 is in custody since 03.11.2022 whereas the petitioner no.2 is in custody since



28.10.2022. The charge sheet has been submitted. The petitioners are having clean antecedent.

5. The learned APP opposes the prayer for bail submitting that there is allegation of opening fire against the petitioners in which the wife of the informant lost her life.

6. Having regard to the facts and circumstances and submissions made hereinabove and considering the nature of allegation against the petitioners which is only for opening fire in air and there is no allegation of opening fire upon the deceased and further considering the submission of charge sheet and period of custody of the petitioners, they are directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-I, Barh, Patna, in connection with Barh P.S. Case No. 699 of 2022, subject to the conditions mentioned in Section 437 (3) of the Code of Criminal Procedure and also the following conditions :

(i) One of the bailors will be a close relative of the petitioners.

(ii) The petitioners will remain present on each and every date fixed by the court below.



(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioners will be liable to be cancelled by the court concerned.

V.K.Pandey/-

(Arun Kumar Jha, J)

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