

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39148 of 2022

Arising Out of PS. Case No.-253 Year-2021 Thana- ALAMNAGAR District- Madhepura

PRINCE KUMAR SINGH @ AKSHAY KUMAR SINGH Son of Bulbul Singh @ Vishwajeet Kumar Singh Resident of village- Bargaon, Ward No. 7 P.s.- Alam Nagar (Ratwara O.P.) District- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 54923 of 2022

Arising Out of PS. Case No.-253 Year-2021 Thana- ALAMNAGAR District- Madhepura

BIRENDRA KUMAR SINGH Son of Late Janardan Singh @ Janardan Singh R/V- Bargaon, P.S- Alamnagar, OP Ratwara, Distt- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 39148 of 2022)

For the Petitioner/s : Mr.Dr. Sanjay Kumar Singh, Advocate

For the Opposite Party/s : Mr.Nagendra Prasad, APP

(In CRIMINAL MISCELLANEOUS No. 54923 of 2022)

For the Petitioner/s : Mr.Hrishikesh, Advocate

For the Opposite Party/s : Mr.Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 09-01-2023 Heard learned counsels for the petitioners and the State.

The petitioners are apprehending arrest in connection with Alam Nagar (Ratwara O.P.) P.S. Case No. 253 of 2021 instituted under sections 147, 148, 149, 307, 302 of the Indian Penal Code and Section 27 of the Arms Act.



As per the prosecution story, the accused persons including the petitioners herein resorted to indiscriminate firing which led to death of Brij Mohan Kumar and Nathuni Sharma who subsequently died in course of treatment.

Learned counsel Mr. Abhay Shankar Jha submits that the said FIR alleging accusation against the two petitioners was lodged on 12.12.2021 which clearly states that Nathuni Sharma died in course of treatment. However, the fact remains that in FIR No. 254 of 2021 which was lodged on 14.12.2021 in the said Nathuni Sharma had given statement before the police in course of his treatment and in which none of the two petitioners were name.

In the aforesaid background, on the last occasion, a coordinate bench had called for the case diary and the same has been received in which in para-39 it has been incorporated that Nathuni Sharma died in course of treatment on 14.12.2021.

Learned counsel for the petitioners submit that when admittedly on 13.12.2021, Nathuni Sharma was alive and gave a statement which led to lodging of the FIR of Alam Nagar P.S. Case No. 254 of 2021 (who subsequently died on 14.12.2021) how his death was incorporated in the Alam Nagar P.S. Case No. 253 of 2021 which clearly shows that despite the fact that



Brij Mohan Kumar had received only one gun shot injury, later deliberately in view of the fact that there was a 'Mukhiya' election and the wife of accused Birendra Kumar was a contender for the 'Mukhiya' post, as an afterthought number of innocent persons have been incorporated in the FIR bearing Alam Nagar P.S. Case No. 253 of 2021.

The last submission is that none of the two petitioners carry criminal antecedents.

Learned APP on the other hand submits that two innocent lives were lost in the indiscriminate firing and accusation is/are against the petitioners and in that backdrop, he has opposed the prayer.

He however, failed to clarify how the person who died on 14.12.2021 came in the list of dead persons on 12.12.2021.

Taking into account the aforesaid fact that so far as these two petitioners are concerned, Alam Nagar P.S. Case No. 254 of 2021 lodged by one of the injured, Nathuni Sharma (who subsequently succumbed to the injuries) had not named these two petitioners, in Alam Nagar P.S. Case No. 253 of 2021, the name of Nathuni Sharma was incorporated as the person who died in course of treatment, there seems to be some discrepancy in the FIR and in view of the fact that the two petitioners do not



carry any criminal antecedent, they deserve relief as sought for.

Let the petitioners be released on bail, in the event of their arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned A.C.J.M-I, Uda Kishunganj, Madhepura in connection with Alam Nagar (Ratwara O.P.) P.S. Case No. 253 of 2021 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Rajiv Roy, J)

Ravi/Ajay Singh

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