

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39771 of 2022

Arising Out of PS. Case No.-2 Year-2022 Thana- KORHA District- Katihar

NITISH KUMAR S/o Ram Prasad Mehta R/o village- Babanganj, P.S.-
Korba, District- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 42692 of 2022

Arising Out of PS. Case No.-2 Year-2022 Thana- KORHA District- Katihar

RAHUL KUMAR S/O LATE BINOD SINGH Resident of Nakkipur, P.S.-
Korha, District- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 46247 of 2022

Arising Out of PS. Case No.-2 Year-2022 Thana- KORHA District- Katihar

PRIYANSHU KUMAR @ PRIYANSHU RAJPUT Son of Kamal Kishore
Singh R/v- Durgapur (Babu Tola), P.S- Barari (Semapur O.P.), Distt- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 49535 of 2022

Arising Out of PS. Case No.-2 Year-2022 Thana- KORHA District- Katihar

SUBODH KUMAR S/o Ram Lal Mehta R/o- Bargaon, Tapu, P.S.- Korha,
District- Katihar

... .. Petitioner/s

Versus

The State of Bihar



... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 39771 of 2022)

For the Petitioner/s : Mr. Vikram Singh, Advocate

For the Opposite Party/s : Mr. Manoj Kumar APP

For the Informant : Mr. Rajendra Prasad Sah, Advocate

(In CRIMINAL MISCELLANEOUS No. 42692 of 2022)

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

For the Opposite Party/s : Mr. Brajendra Nath Pandey, APP

(In CRIMINAL MISCELLANEOUS No. 46247 of 2022)

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

For the Opposite Party/s : Mr. Pramod Kumar Pandey, APP

(In CRIMINAL MISCELLANEOUS No. 49535 of 2022)

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

For the Opposite Party/s : Mr. Anand Kishore Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

6 27-03-2023 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

Learned counsel for the petitioners is permitted to
remove the defect(s), as pointed out by the office, if any, within
a period of four weeks from today.

Petitioners seek bail in a case registered for the
offences punishable under Sections 302 and 120(B)/34 of Indian
Penal Code and under Section 27 of Arms Act.

According to prosecution case, the son of the
informant along with his wife had gone to his sasural and upon
receiving a phone call he left the sasural and at 7:00 p.m the
informant received the information that his son met in an
accident but the informant found two firearm injuries on the
body of his deceased son and lodged the case against unknown



miscreants.

Learned counsel for the petitioners submits that the petitioners have clean antecedent and they have falsely been implicated in the present case. He further submits that the petitioners were not named in the F.I.R. and the names of the petitioners have been transpired during the investigation on the basis of confessional statement of the co-accused, namely, Umesh Kumar and recovery of firearm from the house of the Nitish Kumar (Petitioner in Cr. Misc. No. 39771 of 2022) but no material to suggest that firearm recovered from the house of the petitioner (Petitioner in Cr. Misc. No. 39771 of 2022) was used in the present occurrence.

Vide order dated 10.01.2023, F.S.L., report was called for in respect of the country made pistol which was recovered at the instance of petitioner, Nitish Kumar (Petitioner in Cr. Misc. No. 39771 of 2022).

The F.S.L. report dated 28.01.2023 reads as under:-

Result of examination

(a) The exhibit marked-A noted above in item (1) is a country made semi-automatic pistol having total length of 19.5cm (Approx) of 7.65mm caliber. At present it is in working order and can be used as an effective fire-arm. Its barrel wash was got chemically tested in the laboratory before test



firing, as a result of chemical analysis fire-arm discharge reschedule could be detected inside its barrel, indicating thereby sign of previous firing. Opinion however on exact date and time of firing is not possible.

(b) The exhibit Marked-B noted above in item (2) is a fired bullet of 7.65mm caliber cartridge. It was examined under comparison microscope, On the basis of microscopic examination, no land and grooves were present on its surface only some striation marks were present on its surface, indicating that it had been passes through the barrel of a country made fire-arm designed to fire 7.65mm caliber cartridge.

*Again, the exhibit marked 'B' and test fired bullet marked Tb(A) had been compared among themselves under comparison microscope. On the basis of microscopic examination, the striation marks of fired bullet marked 'B' was found **SIMILAR** to those on test fired bullet marked Tb(A), indicating that both had been passes through the barrel of same country made fire-arm. i.e, country made pistol marked 'A' noted on item (1).*

The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioners and submits that it has come during investigation in the case diary that the petitioners were involved in the present



occurrence. He further submits that the F.S.L. report reveals that the recovered firearm which was recovered from the house of the petitioner, namely, Nitish Kumar was used in crime in question and petitioners have also confessed their guilt in the present occurrence.

Considering the aforesaid facts, I am not inclined to enlarge the petitioners on bail in connection with Korba P.S. Case No. 02 of 2022 pending in the court of learned VIIIth Additional Session Judge, Katihar.

Prayer is refused.

(Rajesh Kumar Verma, J)

Alok Verma/
aditya

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