

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57982 of 2023

Arising Out of PS. Case No.-240 Year-2022 Thana- BACHHWARA District- Begusarai

1. Sonu Singh @ Motka @ Sonu Kumar, S/O - Dilip Singh, R/O Village - Sabaura, Ward No. 14, P.S. - Barauni (REFINERY O.P.)
2. Abhishek Kumar, S/O - Tuntun Sharma, R/O Village - Ratanpur, Vishanpur, Ward No. 17, P.S. - Ratanpur O.P.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kumar Binode Bariar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 09-11-2023 Heard learned counsel for the petitioners and learned
APP for the State.

2. In the present case, the petitioners seek bail in connection with Bachhwara P.S. Case No. 240 of 2022 registered for the alleged offences under Sections 307, 120(B) and 34 of the Indian Penal Code and Section 27 of the Arms Act.

3. As per prosecution case, two persons riding a motorcycle shot at the informant in his abdomen. The miscreants also shot at another person on their way ahead. The name of the petitioner transpired during investigation for being involved in the occurrence.

4. The learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in



this case. There is no eye-witness to the occurrence and informant has not named the petitioners. Learned counsel further submits that there was a case of indiscriminate firing in different areas of Begusarai by motorcycle borne hooligans in which some persons got injured. The police arrested a number of persons and falsely implicated the innocent persons in a number of cases. The name of the petitioners came up in this case on the basis of confessional statement of Co-accused Shivam Kumar and Rishu Kumar. Except for confessional statement, there is no material against the petitioners to connect them with the offence as alleged. Nothing incriminating has been recovered from the petitioners and only a mobile phone has been recovered from them. Petitioners have been remanded in this case from Barauni (Chakiya) P.S. Case No. 438 of 2022 on 14.09.2022. Petitioners are in custody since 25.03.2023 in this case. Till date no Test Identification Parade has been conducted. Learned counsel further submits that petitioner no.2 was having five cases but all the cases were lodged by his agnate, namely, Shambhu Sharma and his family members. But after institution of this case, on 14.09.2022, 15.09.2022 and 16.09.2022, 8 cases have been registered against the petitioners by the police in its highhandedness. Petitioner no.1 is accused in



8 cases but he is on bail in all the cases. Other co-accused persons have been granted bail by different Co-ordinate Benches of this Court vide order dated 12.09.2023 passed in Cr. Misc. No. 48789 of 2023, order dated 17.10.2023 passed in Cr. Misc. No. 65688 of 2023 and order dated 23.08.2023 passed in Cr. Misc. No. 46769 of 2023.

5. Learned APP vehemently opposes the submission made on behalf of the petitioners. Learned APP submits that the petitioners and other co-accused persons went on firing spree and their names transpired during investigation on the basis of confessional statement of co-accused persons. Injury of the informant has been found to be grievous and life threatening. In paragraph 118 of the case diary, one witness has identified the petitioners and other co-accused persons for commission of alleged crime. Learned APP further submits that if the petitioners are enlarged on bail, they would disturb the peace in society. However, learned APP concedes that in paragraph 118 the witness is not an eye-witness to the occurrence of firing upon the informant of this case.

6. Perused the records.

7. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the



fact that except for confessional statement, nothing has come up against the petitioners and further considering the distinct lack of substantive material to connect the petitioners with the offence as alleged, the petitioners above named 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 Judicial Magistrate, 1st Class, Begusarai/ court concerned in connection with Bachhwara P.S. Case No. 240 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 bonds of the petitioners will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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