

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57849 of 2023

Arising Out of PS. Case No.-140 Year-2023 Thana- SHAHPUR PATORI District- Samastipur

1. RAKESH KUMAR @ CHHOTU KUMAR @ RAKESH RAI @ CHHOTU RAI @ CHHOTE RAI SON OF RAMSHREST ROY @ RAMSRETH RAY @ RAMSRETH ROY RESIDENT OF VILLAGE- PIDHAULI, WARD NO. 01, PS- TEGHRA, DIST- BEGUSARAI
2. MURARI KUMAR @ MURARI KUNWAR SON OF AWADH KUNWAR @ AWADH KUMAR @ AWADH KISHORE KUNWAR RESIDENT OF VILLAGE- PIDHAULI, WARD NO. 01, PS- TEGHRA, DIST- BEGUSARAI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sandip Kumar Gautam, Advocate
For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 01-09-2023 Heard Mr. Sandip Kumar Gautam, learned Counsel
for the petitioners and learned APP for the State.

The petitioners are accuseds in connection with Sahpur Patori P.S. Case No. 140 of 2023 registered for the offences under sections 302 and 120(B) of the Indian Penal Code and section 27 of the Arms Act lodged on 27.02.2023 by the informant, Prem Kant Thakur.

As per the prosecution story, the allegation is that the deceased was running a nursing home in partnership with one Sumit Kumar with whom there had been some dispute off late. It is alleged that on the date of occurrence, one Kishan Kumar



who happens to be a staff of one Navin Kumar Thakur made a call whereafter the informant and his brother went to meet him. Then, a Maruti Suzuki Breza car came, 3-4 accused persons including Nepali Kunwar was/were present and allegation is that during conversation, Neapli Kunwar opened fire which hit his brother, was taken to Sub-Divisional Hospital, Patori and then to Sadar Hospital, Samastipur where he succumbed to the injuries. Accordingly, the FIR.

It is the case of the petitioners that from the FIR, specific allegation is against Nepali Kunwar whom the informant has alleged that he opened fire which proved fatal. So far as these petitioners are concerned, allegation is that they were part and parcel of the said decision to kill his brother and Nepali Kunwar who was arrested has confessed them to be present in the car when the alleged occurrence took place. His submission is that in any case, no role has been attributed to them as the shot fired by the Nepali Kunwar proved fatal. His last submission is that they are in custody since 18.04.2023 (as stated in paragraph 21 of the bail application).

Learned APP for the State, on the other hand, opposes the prayer for bail stating that an innocent life has been taken away by the accused persons though specific allegation is there



against Nepali Kunwar.

Considering the submissions put forward by the parties, as per the informant, specific allegation is against Nepali Kunwar that he opened fire which hit his brother, Navin Kumar Thakur and he succumbed to the injuries at best, the role of accomplice is there against these petitioners, they are in custody since 18.04.2023, FIR lodged and will be facing the trial, this Court is inclined to extend them privilege of bail.

Let the petitioners be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousands only) with two sureties of like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Samastipur in connection with Sahpur Patori P.S. Case No. 140 of 2023, subject to the following conditions:-

(i) one of the bailor should be the family member of the petitioners who shall provide official document to show their *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 reason will entail cancellation of their bail bond by the Trial court itself;

(iii) the petitioners shall appear before the concerned



police station every month for next one year to mark attendance;

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

(v) the petitioners shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of their bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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