

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58358 of 2022

Arising Out of PS. Case No.-104 Year-2022 Thana- BASOPATTI District- Madhubani

1. DHARAMDATT CHOUDHARY SON OF KRISHNA CHAND CHOUDHARY R/O VILLAGE- SIRIYAPUR, P.S.- BASOPATTI, DISTT.- MADHUBANI
2. AMIT KUMAR CHOUDHARY SON OF DHARAMDATT CHOUDHARY R/O VILLAGE- SIRIYAPUR, P.S.- BASOPATTI, DISTT.- MADHUBANI
3. SATISH KUMAR CHOUDHARY SON OF HARISH CHANDRA CHOUDHARY R/O VILLAGE- SIRIYAPUR, P.S.- BASOPATTI, DISTT.- MADHUBANI

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Advocate Mr. Shekhar Kumar Singh, Advocate
For the Opposite Party/s	:	Mr. Sanjay Kumar Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 06-01-2023 Heard the learned senior counsel for the petitioners and the learned A.P.P. for the State.

The petitioners seek regular bail in connection with Basopatti P.S. Case No. 104 of 2022 for the offence registered under Sections 307, 324, 506 and 34 of the Indian Penal Code and Section 27 of the Arms Act.

The case of the prosecution, in brief, is that on 16.05.2022 at about 14:45 P.M. in the afternoon, while the informant was at his home, he heard noise of firing of gun shots, whereafter, he came out along with his neighbours and saw that his son and some other persons are coming



towards the house from the orchard raising alarm and 13 accused persons including the petitioners are firing on them. It is further alleged that on account of indiscriminate firing by the accused persons, the son of the informant namely Pushpesh Bhardwaj, one Rahul Kumar and one Shivam were injured.

The learned senior counsel for the petitioner Shri Ramakant Sharma has submitted that the petitioners are innocent and they have been falsely implicated in the present case. It is further submitted that the petitioners no. 2 & 3 are having clean antecedent while the petitioner no. 1 is an accused in one another case but he is on bail in the said case. It is also submitted that the petitioners no. 1 & 2 are languishing in custody since 16.5.2022 while the petitioner no. 3 is languishing in custody since 17.05.2022. The learned senior counsel for the petitioners has next submitted that the present case arises out of case and counter case inasmuch as one F.I.R. bearing Basopatti P.S. Case No. 220 of 2022 has been filed



by one of the accused persons against the prosecution side. It is also submitted that a general and omnibus allegation has been levelled against 13 accused persons of firing indiscriminately and as far as the petitioners are concerned, there is no specific allegation of them having been fired gun shots on any injured person. It is also submitted that similarly situated co-accused persons have already been granted anticipatory bail by a coordinate Bench of this Court vide order dated 20.12.2022 passed in Criminal Miscellaneous No. 64843 of 2022 and vide order dated 08.12.2022 passed in Criminal Miscellaneous No. 40422 of 2022. Lastly, it is submitted that the injuries sustained by the injured persons are not life threatening.

Per contra, the learned counsel for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned senior counsel for the petitioners and taking into account the



materials available on record as also considering the parity of the case of the petitioners with that of the co-accused persons who have already been granted anticipatory bail by a Co-ordinate Bench of this Court apart from the fact that the present case arises out of case and counter case and occurrence in question is stated to have taken place on account of village rivalry and on account of previous dispute as also considering the fact that the petitioners are having a fair antecedent, I deem it fit and proper to admit the petitioners to the privilege of bail.

Accordingly, the petitioners, above named, are directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate- 1st Class, Madhubani in connection with Basopatti P.S. Case No. 104 of 2022.

(Mohit Kumar Shah, J)

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