

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3956 of 2023

Arising Out of PS. Case No.-75 Year-2022 Thana- SIMULTALLA District- Jamui

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1. BIRBAL YADAV S/O Sitaram Yadav R/O Village- Goplamaran, P.S-Simultala, District- Jamui
 2. Muneshwar Yadav S/O Sitaram Yadav R/O Village- Goplamara, P.S-Simultala, District- Jamui

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sinha, Adv.

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

- 4 19-07-2023 1. Heard learned counsel for the petitioners and learned A.P.P. for the State.
2. The petitioners seek bail in connection with Simultala P.S. Case No.75 of 2022 registered for the offence under Sections 302, 120(B)/34 of the Indian Penal Code and Section 27 of the Arms Act.
3. The brother of the informant is alleged to have been shot dead after inflicting gun shot injury made by the petitioners.
4. Learned counsel appearing for the petitioners submits that the petitioners have falsely been implicated in this case due to village politics. He further submits that there is general and omnibus allegation against the petitioners and no specific allegation of assault is attributed to them. He further submits that it has come during



investigation that the co-accused, Pankaj Yadav has fired upon the deceased and fled away and this fact could be seen from the paragraphs 50, 51 and 57 of the case diary. He further submits that no specific allegation of assault or any overt act is attributed to the petitioners nor they have played any pivotal role in the alleged occurrence. He further submits that similarly situated co-accused, namely, Ajay Yadav has been granted bail by this Court vide order dated 21.06.2023 passed in Cr. Misc. No. 5115 of 2023. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioners and they are rotting in judicial custody since 12.08.2022.

5. Learned A.P.P. for the State on the other hand opposed the prayer for bail of the petitioners and submits that the petitioners have opened fire upon the victim due to which he died. He further submits that trial is at the fag end and only two witnesses are yet to be examined. Hence, the petitioners may not be enlarged on bail at this stage.

6. Considering the facts and circumstances of the case and the nature of allegation, let the, above named, petitioners 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 Additional Chief Judicial Magistrate-II, Jamui in connection with Simultala P.S. Case No. 75 of 2022 with the following conditions:-



(1) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bonds shall be canceled by the Court below.

(2) If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

And, further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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