

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15923 of 2024

Arising Out of PS. Case No.-730 Year-2023 Thana- SHAHPUR PATORI District- Samastipur

1. Anil Ray @ Anil Kumar Ray Son of Bhagdev Ray Resident of vill.-Ward 02, Chandpur Dhamaun, P.S.-Patori, Distt.-Samastipur, Bihar
2. Shankar Ray Son of late Dev lal Ray Resident of vill.-Ward 02, Chandpur Dhamaun, P.S.-Patori, Distt.-Samastipur, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 18-03-2024 Heard Mr. Surendra Kumar Singh, learned counsel appearing on behalf of the petitioners and the learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with G.R. No. 3978 of 2023 arising out of Patori P.S. Case No. 730 of 2023, registered for the offences punishable under Sections 341, 323, 307, 504 and 506/34 of the Indian Penal Code and Section 27 of the Arms Act.

3. The FIR is based on the fardbeyan of the informant, whose statement was recorded in the PMCH on 24.11.2023, wherein, he alleged that on 23.11.2023 at about 07:30 AM, while he was walking, in the meantime, co-accused Dhananjay



Rai and Himanshu Kumar, who were respectively armed with rifle and country made pistol fired upon him due to which he sustained one bullet injury in his left thigh. The injury is attributed to Dhananjay Rai. So far the firing allegedly made by Himanshu Kumar is concerned, the same did not hit to the informant. Further allegation has been made that other accused persons including the petitioners, were indulged in pelting stones and bricks.

4. It is submitted on behalf of the petitioners that the deliberations and false implication of the petitioners cannot be ruled out for the simple reason as the occurrence took place on 23.11.2023 and the fardbeyan was recorded on 24.11.2023 by the Sub Inspector of the Police, but surprisingly, the FIR has instituted on 26.11.2023 and the case has been sent to the Court of learned Magistrate on 04.12.2023, in complete defiance of the Section 157 (1) of the Code of Criminal Procedure. Learned counsel for the petitioners further submitted that there is admitted long standing dispute between the parties giving rise to Title Suit No. 17 of 2023 filed by the father of the petitioner no. 1, which is pending before the Civil Judge (Senior Division), Sahpur Patori, Samastipur. Moreover, the persons on both the sides are agnates and there is a Partition Suit No. 08 of 2023



pending between the parties and taking note of the land dispute a proceedings under Sections 144/145 of the Cr.P.C is also pending before the SDO Patori, Samastipur. On the premise of the long standing land dispute, the present FIR has been instituted by implicating the name of all the family members, however, even the prosecution case is taken to be true, there is no specific allegation against these two persons rather an omnibus allegation of pelting stones/bricks has been levelled. Learned counsel for the petitioners lastly submits that the petitioner no. 1 is though accused in Patori P.S. Case No. 270 of 2013, but the same has also on account of the dispute between the parties and he is on bail on the said case, moreover, the petitioner no. 2 does not have any criminal antecedent and the petitioners undertake that they will fully co-operate in the investigation or in the proceeding of the Court.

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application and submits that both the petitioners have actively participated in the alleged crime.

6. Regard being had to the submissions made on behalf of the parties and considering the omnibus nature of allegation and the fact that the bullet injury has been attributed to co-accused Dhananjay Rai, coupled with the delay in lodging



of the FIR and sending it much belatedly to the learned Magistrate and the long standing land dispute between the parties, let the petitioners above named be released on bail, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) **each** with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate 1st Class, Samastipur in connection with G.R. No. 3978 of 2023 arising out of Patori P.S. Case No. 730 of 2023, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioners.

(Harish Kumar, J)

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