

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37539 of 2024

Arising Out of PS. Case No.-25 Year-2024 Thana- LAKHISARAI District- Lakhisarai

Gaurab Kumar Son of Suresh Kumar Resident of Village- Bigana (near Dakghar), P.S- Aleba, Dist- Zind (Haryana)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 37622 of 2024

Arising Out of PS. Case No.-25 Year-2024 Thana- LAKHISARAI District- Lakhisarai

Sandeep Kumar Son Of Balbir Singh Village- Rajaund Ward No. 03, Ps- Rajaund, Dist- Kaithal Hariyana

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 37539 of 2024)

For the Petitioner/s : Mr. Bindhyachal Singh, Sr. Advocate

: Mr. Vipin Kumar Singh, Advocate

For the State : Mr. Bharat Bhushan, APP

(In CRIMINAL MISCELLANEOUS No. 37622 of 2024)

For the Petitioner/s : Mr. Bindhyachal Singh, Sr. Advocate

: Mr. Vipin Kumar Singh, Advocate

For the State : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 18-11-2024 Heard Mr. Bindhyachal Singh, learned Senior Counsel with Mr. Vipin Kumar Singh for the petitioners and Mr. Bharat Bhushan as also Mr. Jitendra Kumar Singh, learned APPs for the State.

2. The petitioners are in judicial custody in connection with Lakhisarai (Kabaiya) P.S. Case No. 25 of 2024 for the offences punishable under Sections 394 of the Indian Penal Code and section 27 of the Arms Act and later on added section 414 of



the Indian Penal Code and section 25(1 b) a/26/35 of the Arms Act, lodged on 09.01.2024 by the informant, Amarkant Paswan.

3. As per the prosecution story, the informant alleged that he has driving white Scorpio and coming towards Patna when near Jamui crossing he was intercepted by the accused persons, demanded the key of the car, upon resistance, opened fire causing injury below the waist as also the thigh and the allegation is that thereafter, they fled towards Ramgarh, this led to the F.I.R.

4. Subsequently, it appears that the police upon information, chased the accused, in view of the installation of GPS system in the Scorpio, the accused left the said car, shifted in Swift Dzire but subsequently, were apprehended by the police and in that way they are in custody.

5. Learned Senior Counsel for the petitioners submit that though allegation of opening fire causing injury on the waist/thigh is/are alleged, no injury report is/was on record till the filing of the petition despite the fact that the charge sheet was submitted. It is his further submission that within hours they were apprehended but were not put on Test Identification Parade.

6. In view of the allegation made in the F.I.R. and the submission of learned Senior Counsel for the petitioner that no injury has come in the case diary and the charge sheet stands submitted, this Court wanted the police to file counter affidavit as



also the appearance of the concerned police official who is incharge of the case.

7. Pursuant thereto a counter affidavit has come annexing the injury report.

8. Learned Senior Counsel has pointed out though the case is of 09.01.2024, the injury report is dated 10.10.2024 and as such, the same has now been prepared only after the filing of charge sheet as also the direction of this Court to produce the same.

9. Mr. Jitendra Kumar Singh appeared on behalf of the State and he has pointed out that though the informant who was medically examined on the same, the Medical Officer failed to submit report and the Investigating Officer earlier Balmukund Prasad has submitted the charge sheet who subsequently died whereafter the file was assigned to Mr. Subodh Chaudhary attached with the Kabaiya Police Station district Lakhisarai was assigned the job when the charge sheet was already submitted. He further submits that though TI Parade could not be conducted due to the death of the IO in between, necessary steps have been taken by the present IO so that the medical report becomes the part of the case when the trial is taken up.

10. Having heard the parties, the fact remains that while looting the Scorpio car, the informant was shot at, subsequently,



the accused persons were also apprehended. However, it is surprising that in such cases, the State completely bypasses the established rules/procedure and only after filing of charge sheet and summoning of the concerned Investigation Officer by this Court, the injury report comes on record. Equally surprising is that despite the accused apprehended within hours, they were not put on TI Parade.

11. Considering the aforesaid facts as also the fact that the charge sheet stands submitted, the two petitioners are in custody since 09.01.2024 itself and as submitted by learned Senior Counsel for the petitioners with the help of paragraph no.3 of the petition that both do not have criminal antecedent and if granted relief, they shall be diligently appearing in trial, this Court is inclined to extend them the privilege of bail.

12. Let the petitioners be released on bail on furnishing bail bond of Rs. 20,000/- (Twenty thousand) each with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Lakhisarai in connection with Lakhisarai (Kabaiya) P.S. Case No. 25 of 2024, subject to the following conditions:

(i) one of the bailor of both the petitioners should be the native of Bihar who shall provide official document to show his/her *bona fide*;



(ii) the petitioners shall appear on each and every date before the Trial Court 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 their attendance;

(iv) the petitioners shall in now 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 the 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 bail bonds.

13. The physical presence of the Investigating Officer is dispensed with taking into account his words that he shall be immediately taking steps for submission of medical report before the Trial Court in accordance with law.

(Rajiv Roy, J)

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