

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79355 of 2023**

Arising Out of PS. Case No.-27 Year-2022 Thana- KIUL District- Lakhisarai

1. Rajesh Kumar, Son of Bale Yadav @ Baleshwar Yadav, Resident of Village - Hakinganj, P.O. - Kiul, P.S. - Kiul, District - Lakhisarai
2. Sanjiv Kumar @ Jonson Kumar, Son of Ramesh Yadav, Resident of Village - Khagaur, P.S. - Kiul, District - Lakhisarai

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Shailesh Anand, Advocate
For the Opposite Party/s : Mr. Navin Kumar Pandey, APP
For the Informant : Mr. S.K. Lal, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 10-05-2024 Heard learned senior counsel for the petitioners and learned Additional Public Prosecutor for the State and learned counsel for the informant.

2. The accused/petitioners are named in the FIR and apprehending their arrest in connection with Kiul P.S. Case No.27 of 2022 registered under Sections 302 read with 34 of the Indian Penal Code and Section 27 of the Arms Act.

3. The allegation against the petitioners is to commit murder of father-in-law of the informant by causing firearm injuries, where occurrence arises out of local disputes



and differences.

4. It is submitted by learned counsel appearing for petitioner that in a very planned and formulated manner out of false and imaginary allegation, the petitioners have been implicated with present case. It is submitted that petitioners were named in the FIR, where informant claimed herself to be an eye-witness of the occurrence, as she was also following her deceased father-in-law along with co-accused persons including the petitioners. Having all such allegation, during investigation, nothing found incriminating by the police against the petitioners and submitted charge-sheet by exonerating them, whereas the learned Jurisdictional Magistrate by taking different note took cognizance against the petitioners for the offences punishable under Section 302, 120-B read with 34 of the Indian Penal Code and Section 27 of the Arms Act. It is submitted that the call details report of several mobile phones, which were collected during investigation, nowhere connect petitioners with present crime in question. It is submitted that even the firearm/pistol used in alleged occurrence was recovered in



furtherance of the confessional statement of apprehended co-accused, namely, Shiva Kumar, who did not even name these petitioners and stated in his confessional statement that all bullets were fired by him. Learned counsel submitted that all such inculpatory statement of apprehended co-accused persons, namely, Shiva Kumar along with recovery of pistol in in furtherance of his confessional statement and call details report, were the factual aspects on this basis of which petitioners were exonerated.

5. It is further submitted by learned counsel that the two other eye-witnesses of the occurrence, namely, Dhaneshwar Bind and Manju Devi whose statements were recorded under para-7 and 8 of the case diary makes a doubt that whether they are eye-witness of the occurrence or not for the simple reason that Dhaneshwar Bind has failed to say anything about the presence of informant, who also claimed to be present at the place of occurrence and furthermore, the statement of other eye-witness Manju Devi also appears doubtful, as she is not the eye-witness of the real occurrence of murder. While concluding argument, it is



submitted that petitioners were found involved in two more criminal cases, where they are on bail.

6. Learned APP for the State duly assisted by Mr. S.K. Lal, learned counsel appearing for the informant submitted that considering the informant as an eye-witness of the occurrence and other witnesses, who supported the occurrence during investigation involving petitioners, the learned Jurisdictional Magistrate has taken cognizance against the petitioners. However, Mr. Lal fairly conceded that upon investigation, the petitioners were exonerated by the police.

7. Considering the aforesaid factual submissions and also as petitioners were exonerated upon investigation, accordingly, the petitioners, above-named, are directed to be released on bail, in the event of their arrest or surrender in the court below within a period of four weeks, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Lakhisarai in connection with Kiul P.S. Case No.27 of 2022, subject to the



conditions as laid down under Section 438(2) of the CrPC
and with further conditions:-

(i) That petitioners shall not involve in similar nature of case till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioners.

(ii) That petitioners shall co-operate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court only on medical ground of the petitioners duly supported by the documents.

(iii) That one of the bailors shall be deponent of the present bail petition.

(Chandra Shekhar Jha, J.)

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