

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.33960 of 2023**

Arising Out of PS. Case No.-413 Year-2019 Thana- BARH District- Patna

- 
1. Chandan Kumar Son Of Shri Navin Singh Resident Of Village- Fatehpur, Ps- Barh, Distt- Patna
  2. Vikki Kumar Son Of Shri Shiv Kumar Singh Resident Of Village- Fatehpur, Ps- Barh, Distt- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

---

**Appearance :**

|                      |   |                                 |
|----------------------|---|---------------------------------|
| For the Petitioner/s | : | Mr. Manish Kumar No.2, Advocate |
| For the State        | : | Mr. Jitendra Kumar Singh, APP   |

---

**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL ORDER**

3      07-01-2025                      Heard Mr. Manish Kumar No.2, learned counsel for the petitioners and Mr. Jitendra Kumar Singh, learned APP for the State.

2. The present petition has been filed for quashing of the order dated 05.05.2022 passed by the learned Additional District and Sessions Judge-V, Barh, Patna in connection with Barh P.S. Case No. 413 of 2019.

3. The F.I.R. has been lodged by the Officer Incharge of the Barh Police Station alleging that on 30.08.2019, a video got transmitted in the area showing the accused persons flashing AK-47 rifle as the same comes under the prohibited arms, the F.I.R. was lodged against three accused persons including these



petitioners namely Chandan Kumar and Vikki Kumar beside Karamveer Singh whose house was used as per the video to flash the said arm.

4. The Police investigated the matter and later submitted charge-sheet which followed cognizance, the date is missing and learned counsel for the petitioner also failed to provide the date of cognizance order.

5. Thereafter, the discharge petition was preferred by the petitioners which was taken up by the learned Additional District & Sessions Judge-V, Barh, Patna in Case No.1143 of 2019 and vide an order dated 05.05.2022 passed a reasoned order detailing out the facts of the case as also that sufficient materials are available for framing of the charges. In that background, the petition preferred by the petitioners on 20.01.2020 was rejected on 05.05.2022 with stands challenged in the present petition.

6. Learned counsel for the petitioner submits that it was not an AK-47 rifle rather the petitioners were flashing a toy gun but the Police in a zeal to implicate, came out with the story. The learned court failed to look into these facts and incorporated the facts that there are sufficient materials to frame the charges.

7. Learned APP Mr. Jitendra Kumar Singh, on the



other hand submits that a bare perusal of the F.I.R. would show that one of the accused person has criminal antecedent. The prohibited arms wherein flashed and whether it was a toy gun or actually AK-47 rifle the same has to ascertain at the time of trial and not in a quashing petition.

8. Having heard the parties and perusing the records, this Court find force in the submission of learned APP. A reasoned order has been passed by learned Additional District & Sessions Judge-V, Barh, Patna reasoning out whey the discharge petition cannot be allowed.

9. There is no reason to differ with it.

10. Accordingly, the petition stands dismissed.

**(Rajiv Roy, J)**

vinayak/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

