

IN THE COURT OF A.C.J.M. I. Munger.

ORDER

23.01.2021;

All the three accused persons are produced from jail on p/w.. Record is put for order today on petition dated 27.09.20019 filed by the accused persons for discharge. In their petition the accused persons have submitted that they have been falsely implicated in this case and this case has been instituted u/s 147/149/341/307/384 Indian Penal Code and 27 Arms Act against the accused persons and there is no material either in F.I.R. or case dairy for framing charge against accused persons. It has been further submitted that all the charge-sheeted witnesses have not supported the case of prosecution and no prima facie case is made out against the accused persons u/s 147/149/341/307/384 IPC and 27 Arms Act and for the sake of justice they are liable to be discharge. There is no ground to presume that the petitioner have committed the offence. Lastly pray to discharge the accused persons from this case. A copy of this petition has been served to the learned APP Munger and he has filed the rejoinder on 05.11.2020 stating therein that the petition filed by the accused persons for their discharge is not maintainable either in law as well as on facts and it is fit to be rejected and there is definite allegation in the first information report against the petitioners and witnesses have also supported the case of prosecution and there is ample material on the record which will show that there is every chance of conviction in the present case and the petition of the accused persons for discharge is fit to be rejected. Lastly prays to to reject the petition of the accused persons and proceed with the case.

Heard both parties and perused the material available on the case record. From perusal of the material available on the case record it is clear that on the basis of written information of informant Avinash Chandra Kushwaha,

Jamalpur Police station case no. 225/2017 was registered u/s 147/149/341/307/384 Indian Penal Code and 27 Arms Act against all three petitioners and 6-7 unknown persons. After investigation, investigating officer of this case found this case true and submitted charge-sheet u/s 147/149/307/384 IPC and 27 Arms Act in the court of learned Chief Judicial Magistrate Munger who took cognizance of the offence under aforesaid sections on 28.03.2018 and vide order dated 17.04.2018 this case has been committed to the court of sessions and on 15.05. 2018 the case record was received from the office of court of sessions, Munger for trial and disposal. From perusal of the case diary available on the case record it appears that informant Avinash Chandra Kushwaha, witness Daya Nand Kushwaha, Rupesh Mandal, Niranjana Kumar and Umesh Pandit as mentioned in para 6 to 10 of the case diary have supported the case of prosecution and from perusal of injury report it reveals that fire arm injury is caused to informant Avinash Chandra Kushwaha. Thus there is sufficient material available on the case record to frame charge against the petitioners of this case. It is well settled principle of the law that at the stage of framing of charge the court is not required to appreciate the evidence and arrive at a conclusion that the material produced are sufficient for convicting the accused and if prima facie case is made out for further proceeding, then the charge has to be framed. Under facts and circumstances discussed above, petition dated 27.09.2019 filed by the accused persons is hereby rejected.

Put up on \_\_\_\_\_ for framing of charge.

**A.C.J.M. I, Munger.**