

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8323 of 2015

Arising Out of PS.Case No. -42 Year- 2013 Thana -ASARGANJ District- MUNGER

1. Wakil Thakur Son of Late Subhit Thakur, Resident of Village -
Lakhanpur, Police Station - Tarapur, Munger.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.23804 of 2014

Arising Out of PS.Case No. -42 Year- 2013 Thana -ASARGANJ District- MUNGER

1. Dilip Kumar Mandal @ Dilip Kumar Singh @ Dilip Singh @ Dilip
Mandal Son of Rabinder Prasad Singh Resident of Village-Manihari, P.S.-
Bath, District-Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.8323 of 2015)

For the Petitioner/s : Mr. Dinesh Kumar Gupta

For the Opposite Party/s : Mr. Ram Shankar Das(Spl.App)

(In Cr.Misc. No.23804 of 2014)

For the Petitioner/s : Mr. Subhash Kumar Jha

For the Opposite Party/s : Mr. Ambika Bhagat(Spl.Pp)

CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA

ORAL ORDER

8 06-01-2016 Both the above mentioned Criminal Miscellaneous

arise out of the same occurrence and as such have been heard

together and are being disposed of by passing this common order.

Heard the learned counsel for the petitioners as well

as the learned A.P.P.

The petitioners seek bail in a case for the offences punishable under sections 364, 302 and 201 of the I.P.C and section 3 (11) (5) of the SC/ST Prevention of Atrocities Act.

The petitioners are not named in the FIR and in the FIR it is alleged that the husband of the informant was called by Anil Vaidya where he used to work and thereafter he did not return and accordingly FIR was registered against Anil Vaidya and others for killing the husband of the informant and making the dead body traceless. During investigation on the basis of mobile location Sonu Kumar, the son of petitioner Wakil Thakur was caught who produced mobile of the deceased and Sonu Kumar disclosed that the said mobile was given to his father Wakil Thakur by Dilip Kumar Mandal and Amit Kumar and thereafter the petitioner Dilip Kumar Mandal @ Dilip Kumar Singh @ Dilip Singh @ Dilip Mandal and Amit Kumar were arrested and they confessed their guilt and on the basis of disclosure made by petitioner Dilip Kumar Mandal one spade used in the crime was recovered from the house of Dilip Kumar Mandal and further the skeleton was recovered from the paddy field and the wife of the informant identified the langota to be of her husband and it transpired that Kunal Kumar Choudhary @ Kunal Choudhary due to political rivalry after hiring criminals got murdered the

deceased.

Submission is of false implication and that the petitioners are not named in the FIR and in the protest petition and they have been implicated under the influence of FIR named accused persons, skeleton has already been recovered earlier and it was stated by nearby persons that the same is of buffalo and the report of D.N.A. test did not yield any specification resulting the same was not matched with the blood sample of son of the deceased and as such the extra judicial confession has got no evidentiary value in the eye of law.

The learned A.P.P. seriously opposes prayer for bail by submitting that the mobile of the deceased was recovered from possession of son of the petitioner Wakil Thakur and spade which was used in the crime was recovered from the house of petitioner Dilip Kumar Mandal.

Having regard to the facts and circumstances of the case and noticing that the petitioners are neither named in the FIR nor they are named in the protest petition and the D.N.A test report received did not yield any positive finding and the same could not be matched with the blood sample of son of the deceased and as such considering detention of the petitioners and further that charge sheet has already been submitted and there is

no chance of tampering with the prosecution evidence, they are directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of C.J.M. Munger in Asarganj P.S. Case No. 42 of 2013, subject to the conditions that one of the bailors must be a near relative and another having sufficient immovable property within the territorial jurisdiction of the court concerned and the petitioners shall remain present on each and every date during trial and the default on two consecutive dates on their part without any reason shall disentitle the petitioners from privilege of bail.

(Jitendra Mohan Sharma, J)

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