

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9077 of 2016

Arising Out of PS.Case No. -72 Year- 2013 Thana -SANJHAULI District- SASARAM (ROHTAS)

1. Bhirgun Yadav son of Shiv Parshan Yadav resident of village - Tillai,
Police Station Sanjhauli, District - Rohtas.

.... .. Petitioner/s

Versus

1. The State of Bihar.

.... .. Opposite Party/s

with

Criminal Miscellaneous No.9101 of 2016

Arising Out of PS.Case No. -72 Year- 2013 Thana -SANJHAULI District- SASARAM (ROHTAS)

1. Laxman Yadav, son of Shiv Parshan Yadav, Resident of Village- Tillai,
Police Station Sanjhauli, District- Rohtas.

.... .. Petitioner/s

Versus

1. The State of Bihar

.... .. Opposite Party/s

Appearance :

(In Cr.Misc. No.9077 of 2016)

For the Petitioner/s : Mr. Sunil Kumar Singh

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

(In Cr.Misc. No.9101 of 2016)

For the Petitioner/s : Mr. Sunil Kumar Singh

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

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

04/ 24.08.2016 Both the above stated petitions arise out of Sanjahuli P.S.
case no. 72/2013 registered under sections 302 and other allied
sections of the Indian Penal Code, section 3 (I) (X) of the SC/ST
(Prevention of Atrocities) Act and accordingly, both the above stated
petitions are being disposed of by this common order.

Heard learned counsel for the petitioners as well as learned

Addl. Public Prosecutor for the State.



Petitioner in Cr. Misc. no. 9077/2016 is languishing in jail custody since 16.10.2013 whereas petitioner in Cr. Misc. no. 9101/2016 is languishing in jail custody since 18.11.2013 and earlier prayer for bail of both petitioners was rejected by this court by a common order dated 8.4.2015 passed in Cr. Misc. no. 38793/2014 and analogous case with direction to the Sub divisional Judicial Magistrate, Bikramganj District Rohtas to commit the case and after that trial court should expedite trial of the petitioners and to conclude the trial as early as possible.

Learned Addl. Sessions Judge I, Rohtas at Sasaram vide his letter no. 123 dated 3.8.2016 informed that initially, charge sheet was filed against co- accused Manoj Yadav, Parmanand Yadav and petitioners and the case of petitioners and two co- accused was committed to the court of sessions on 13.2.2015 and thereafter, charges were framed on 10.10.2015 but inadvertently, charges were framed against one co- accused Hareram Yadav, though his case had not been committed to the court of sessions. However, when the aforesaid irregularity was brought to the notice of the court, then Addl. Sessions Judge, Rohtas, again, framed separate charges against petitioners and two co- accused persons on 21.4.2016. Therefore, aforesaid report of Addl. Sessions Judge goes to show that up till now, not a single prosecution witness could be examined.

The accusation against petitioners is that they made firings causing firearm injuries to one Chanmuna Devi and Raj Kumar Paswan and due to firearm injuries Chanmuna Devi died in course of



her treatment. The injured Raj Kumar Paswan sustained simple injury though said to be caused by firearm and at para 66 of the case diary, the aforesaid Raj Kumar Paswan, specifically, stated that petitioners made firing causing firearm injury to him as well as Chanmuna Devi but he did not elaborate as to whose firing hit him. The statement of Chanmuna Devi was also recorded and videography was done but I.O. has not copied the statement of Chanmuna Devi in the case diary rather at para 48 of the case diary, he only stated that the aforesaid Chanmuna Devi named Hareram, Pramanand and petitioners as assailants. Therefore, it is not clear either from the statement of injured Raj Kumar Paswan or from the statement of Chanmuna Devi as to who caused firearm injury to Chanmuna Devi.

Moreover, there is case and counter case between the parties and persons from both sides appeared to have sustained injuries. The report of Addl. Sessions Judge I, Rohtas at Sasaram goes to show that there is no possibility of conclusion of trial of the petitioners in near future. Petitioners do not have any criminal antecedent and they are languishing in jail custody since long without any substantive progress in their trial.

Considering the aforesaid facts and circumstances as well as submissions of the parties, let the petitioners be released on bail on furnishing bail bonds of Rs 10,000/- each with two sureties of the like amount each to the satisfaction of the Addl. Sessions Judge I, Rohtas at Sasaram in Sessions Trial no. 160/2015 arising out of Sanjahuli P.S. case no. 72/2013 subject to conditions that any attempt by petitioners or on their behalf to terrorize witnesses or to tamper with the

prosecution evidence shall give liberty to the trial court to cancel the bail bonds of petitioners after due and proper enquiry.

(Hemant Kumar Srivastava,J)

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