

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22059 of 2016

Arising Out of PS.Case No. -434 Year- 2015 Thana -BODHGAYA District- GAYA

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1. Binay Kumar @ Binay Kumar Yadav Son of Leela Yadav
2. Sanjay Kumar @ Sanjay Kumar Yadav Son of Leela Yadav
Both resident of Baijubigha, P.O. + P.S. Bodhgaya, Distt. - Gaya
.... Petitioners

Versus

1. The State of Bihar Opposite Party

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with

Criminal Miscellaneous No.15012 of 2016

Arising Out of PS.Case No. -434 Year- 2015 Thana -BODHGAYA District- GAYA

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1. Nitesh Kumar S/o Mahendra Singh R/o village - Sarish Gopalpur, P.S. Barun, District - Aurangabad
.... Petitioner

Versus

1. The State of Bihar Opposite Party

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Appearance :

(In Cr.Misc. No.22059 of 2016)

For the Petitioner/s : Mr. Binod Kumar Singh, Advocate
Mr. Sumeet Kumar Singh

For the Opposite Party/s : Mr. Zainul Abedin (App)

(In Cr.Misc. No.15012 of 2016)

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate
Mr. Deepak Kumar, Advocate

For the Opposite Party/s : Mr. Anuj Kumar Srivastava (App)

For the Informant : Mr. Sudhir Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

6 11-07-2016 Above noted both applications have arisen out of one occurrence i.e. Bodhgaya P.S. Case No. 434 of 2015 registered for the offence punishable under Section 364 of the Indian Penal Code and as such they have been heard together and are being disposed of by this common order.

Allegedly, two unknown persons came in the guest house of the informant at about 7:30-8:00 pm and the father of the



informant went with those two persons and thereafter, he did not return and his cell phones were also found switched off. It is alleged that the FIR named accused persons might have kidnapped the father of the informant as from earlier they were causing threats. During investigation the dead body of the deceased Birendra Yadav was recovered and further the petitioner Nitesh Kumar and Md. Mubarak @ Munna confessed their guilt.

Submission is of false implication and that besides suspicion there is nothing against the petitioners, petitioners Binay Kumar @ Binay Kumar Yadav and Sanjay Kumar @ Sanjay Kumar Yadav along with others are named in the first information report whereas the petitioner Nitesh Kumar is not named, besides confessional statement and suspicion there is nothing against them, there is no eye witness of the occurrence, no one has seen the deceased in the company of the petitioners, without any proper investigation they have been chargesheeted, resulting, they are suffering in custody whereas other co-accused Arti Devi, Md. Mubarak @ Munna whose confessional statement has been recorded, Musafir Yadav, Uday Shankar Yadav, Anand Yadav and Kanchnand Yadav have already been allowed bail

Learned APP duly assisted by learned counsel for the informant opposes the prayer of bail.

In the facts and circumstances stated above, considering that chargesheet has already been submitted and there is no chance of tampering with the prosecution evidence, the petitioners above named of both the cases are directed to be released on bail on execution of bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Gaya in connection with Bodhgaya P.S. Case No. 434 of 2015, 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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