

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9256 of 2016

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

- =====
1. Musafir Yadav, Son of Late Sohrai Yadav, Resident of Village - Baiju Bigaha, Police Station - Bodh Gaya, District - Gaya.
 2. Uday Shankar Yadav @ Uday Shankar Nirala, Son of Kailash Yadav, Resident of Village - Chanda Khural, Police Station - Wazirganj, District – Gaya
- Petitioners

Versus

The State of Bihar

.... Opposite Party

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with

Criminal Miscellaneous No.12400 of 2016

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

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Parmanand Vishwakarma, Son of Late Rambilash Mistry, Resident of Village- Kahudag, P.S. Barachatti, District- Gaya. Petitioner

Versus

The State of Bihar

.... Opposite Party

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with

Criminal Miscellaneous No.15328 of 2016

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

- =====
1. Anand Yadav @ Anand Kumar
 2. Kanchnand Yadav alias Kanchnand Kumar
 3. Dayanand Yadav @ Dayanand Kumar All sons of Musafir Yadav resident of village Baiju Bigha, Police Station -Bodh Gaya, District Gaya.

.... Petitioners

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

(In Cr.Misc. No.9256 of 2016)

For the Petitioners : Mr. Mahasweta Chatterjee, Advocate

For the Opposite Party : Mr. Binod Kumar -3 (APP)

For the Informant : Mr. Sanjeev Kumar, Advocate

(In Cr.Misc. No.12400 of 2016)

For the Petitioner/s : Mr. Nikhilesh Kumar

For the Opposite Party/s : Mr. Rajeev Nayan (APP)

(In Cr.Misc. No.15328 of 2016)

For the Petitioner/s : Mr. Mahasweta Chatterjee

For the Opposite Party/s : Mr. P.N.Pandit (APP)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

3 16-05-2016 Heard learned counsel for the petitioners learned
counsel for the informant and learned APP for the State.

Petitioners apprehend their arrest in connection with Bodhgaya P.S. Case No. 434 of 2015 for the offences punishable under Sections 364, 302, 120B, 34 of the Indian Penal Code.

The Prosecution case has been instituted on the basis of a written report of one Roshan Kumar is that the father of the informant Birendra Kumar @ Commando Yadav was called by two unknown person between 7:30 to 8 P.M. on 01.12.2015 from the guest house of the informant situated at Bhagalpur Mor and accordingly the father of the informant went with those two unknown persons and it is mentioned in the First Information Report that when the informant wanted to contact his father on his mobile Nos. 8082139687/ 9801668360, then the mobiles were found switched off. The informant expressed his doubt that following persons have been kidnapped due to litigation which is going on between them.

It has been submitted by the learned counsel for the petitioners that so far as Cri, Misc. No. 12400 of 2016 is concerned, the petitioner is not named accused in the First Information Report and all the other petitioners/accused persons are named accused in the First Information Report. It has been further submitted that as they have no criminal antecedent and it is on the basis of a Civil Suit No. 01 of 2013 filed by one Lalita Devi impleading the father of the informant as a party that the



allegations have been made against them. It has further been submitted by the learned counsel for the petitioners that the statement of the wife and son of the deceased has given different time of alleged occurrence. The independent witness has also stated that the deceased while having tea from his shop got a call on his mobile, thereafter, he proceeded but in the First Information Report the alleged occurrence occurred from the house. It has also been submitted that as per paragraph 35 and 36 of the case diary some other persons have stated that they had killed the deceased.

However, learned counsel for the informant submits that it was on confessional statement of one Nitish Kumar, Mubarak and Ratan that the entire plot for killing the deceased has come into surface. He further submits that body which was found by the Chaukidar which was patrolling officer, who found that a body was on the divider on the road and in the post mortem report it shows death due to strangulation. However learned counsel for the petitioners submits that patrolling place is about 100 and 50 kilometers from the place of occurrence and the dead body was found at 8:45 P.M., i.e. nearly 45 minutes after the alleged time of occurrence as stated in the First Information Report.

However, the learned APP for the State submits that petitioners are named in the First Information Report and during course of confessional statement of the co-accused the name of the

petitioners have also surfaced hence, opposes the prayer for bail.

Be that as it may, since the petitioners have been made accused only on the basis of suspicion and confessional statement of the co-accused, let the petitioner, above named, in the event of their arrest or surrender before the Court below within a period of eight weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand only) 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 as laid down under Section 438(2) of the Cr.P.C.

(Nilu Agrawal, J.)

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