

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3513 of 2016

Arising Out of PS.Case No. -311 Year- 2014 Thana -MANER District- PATNA

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1. Mohan Rai
2. Brijmohan Rai,
Both sons of Late of Jeeta Rai @ Late Deepa Rai, Resident of Village -
Sherpur, P.S. - Maner and District - Patna. Petitioners
Versus
1. The State of Bihar Opposite Party

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with
Criminal Miscellaneous No.5550 of 2016

Arising Out of PS.Case No. -311 Year- 2014 Thana -MANER District- PATNA

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1. Bijendra Rai @ Bijendra S/o - Suraj Rai R/Village - Daudpur, P.S. -
Shahpur, District - Patna..... Petitioner
Versus
1. The State of Bihar. Opposite Party

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Appearance :
(In Cr.Misc. No.3513 of 2016)
For the Petitioner/s : Mr. Sanjay Kumar Griyaghey
For the Opposite Party/s : Mr. Parmanand Prasad (App)
(In Cr.Misc. No.5550 of 2016)
For the Petitioner/s : Mr. Y. C. Verma, Sr. Advocate
Mr. Sunil Kumar Pandey
For the Opposite Party/s : Mr. Madhuranand Jha,(App)
For the Informant : Mr.
Ghanshyam Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

4 17-03-2016 Above noted both the applications have arisen out of

one occurrence i.e. Maner P.S. Case No. 311 of 2014 registered

for the offences punishable under Sections 364, 302, 201/120B of

the Indian Penal Code and as such they have been heard together

and are being disposed of by this common order.

Counter affidavit has been filed on behalf of the
informant. Let the same be kept on record.

In the counter affidavit Photostat copy of certified copy

of deposition of PWs 1, 2, 3, copy of order passed in Cr. Misc. No. 16679 of 2015 and 54708 of 2015, copy of petition filed by the informant and copy of letters have been annexed.

Allegedly, the dead body, which was cut into pieces, was recovered and from the tattoo the informant identified the dead body as of Binay Rai his brother and lodged the fardbeyan naming the petitioners and other co-accused. During investigation Goobri Ram confessed his guilt and on the basis of his confession daab which was used in the crime and other articles were recovered and further the parts of dead body of the deceased were also recovered and that Goobri Ram named the petitioners. The witness Shatrughan Kumar in para 38 of the case diary has stated that in the night of occurrence Goobri and Ganesh Ram were going away with a bag and in para 39 witness Kameshwar Ram has stated that Goobri Ram and Ram Dayal were seen taking away the bag and behind them Deputy Ram, Ganesh Ram, Mahesh Ram, Vidya and others were going.

Submission is of false implication and that the informant earlier lodged Sanha that his brother Binay Rai is missing and in that Sanha petitioners are not named but after recovery of the dead body the informant named the petitioners also, there is no eye witness of the occurrence and some of the



witnesses have come to say that they have seen them following co-accused Goobri Ram and Ram Dayal, besides suspicion there is nothing against them, confessional statement of Goobri and petitioner Bijendra Kumar cannot be the basis of implicating the petitioners and as such they deserve sympathetic consideration to which learned APP duly assisted by learned counsel for the informant opposes by submitting that the crime was committed inside the house and as such there was no eye witness of the occurrence, the witnesses have seen taking away the bag containing the dead body and co-accused Goobri Ram, Ram Dayal and petitioner Bijendra Kumar have confessed their guilt.

In the facts and circumstances stated above, considering that against the petitioner there is no direct evidence, confessional statement of petitioner Bijendra Kumar before the Police cannot be made basis for detaining the petitioners in further custody and there is no recovery and as such the petitioners above named 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 Additional Chief Judicial Magistrate, Danapur in connection with Maner P.S. Case No. 311 of 2014, 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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