

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 24548 of 2019

Arising Out of PS Case No.-107 Year-2018 Thana- MURLIGANJ District- Madhepura

1. Brajesh Yadav, aged about 43 years, Male, Son of Upendra Yadav, Resident of Village - Bhelahi, P.S.- Murliganj, District - Madhepura.
2. Babloo Yadav, aged about 35 years, Son of Upendra Yadav, Resident of Village - Bhelahi, P.S.- Murliganj, District - Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vivekanand Singh, Advocate
For the State	:	Mr. Sanjay Kumar Singh, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 13-08-2019

Heard learned counsel for the petitioners. Learned APP for the State and learned counsel for the informant, who has *suo motu* appeared.

2. Learned counsel for the petitioners submitted that petitioner no. 1 has been arrested and, thus, he is not pressing the application on his behalf. Accordingly, the application stands restricted to Babloo Yadav, petitioner no. 2.

3. The petitioner no. 2 apprehends arrest in connection with Murliganj PS Case No. 107 of 2018 dated 24.03.2018 instituted under Sections 452, 302 and 120B of the Indian Penal Code.



4. The petitioner along with eleven named persons is accused of assaulting the son of the informant with sharp edged weapon causing his death.

5. Learned counsel for the petitioner submitted that there is no specific allegation of having inflicted any blow on the deceased. It was submitted that the postmortem report discloses three injuries caused by sharp edged weapon. It was further submitted that there is contradiction between the statement of the informant and restatement before the police inasmuch as, in the FIR, the allegation is against all twelve accused of killing the deceased and the informant being an eye witness to the incident, whereas in the subsequent statement of the police, it has been stated that nephew of the informant went to the room of the deceased and upon cry being raised, the informant and others came and saw the deceased. It was further submitted that even in the FIR, the allegation of land dispute and enmity is only with regard to two other co-accused and not against the petitioner who has nothing to do with such dispute and is only a co-villager.

6. Learned APP, from the case diary, fairly submitted that there is major discrepancy between the statement made in the FIR and restatement before the police, of the informant, which indicates that the informant was not an eye witness to the crime.



He further admitted that nothing has come in the investigation with regard to anybody seeing the petitioner committing such crime.

7. Learned counsel for the informant submitted that all the accused together had attacked and killed the deceased and that they should face the trial. However, on a specific query of the Court as to how there was such major and material contradiction between the statement of the informant herself in the FIR and the subsequent restatement before the police, learned counsel could not explain such conduct.

8. Considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner no. 2 namely, Babloo Yadav be released on bail upon furnishing bail bonds of Rs.15,000/- (fifteen thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Madhepura in Murliganj P.S. Case No. 107 of 2018, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

9. The petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner. The petitioner shall also give an undertaking to the Court that he shall not indulge in any



criminal activity. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds.

(Ahsanuddin Amanullah, J.)

P. Kumar

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