

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68322 of 2018

Arising Out of PS. Case No.-66 Year-2017 Thana- GHOSWARI District- Patna

Sube Yadav, Son of Sri Gendu Yadav, Resident of Village – Gilani, P.S.- Sare,
District – Nalanda.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

With

CRIMINAL MISCELLANEOUS No. 69076 of 2018

Arising Out of PS. Case No.-66 Year-2017 Thana- GHOSWARI District- Patna

Bhuneshwar Yadav, S/o Kishori Yadav, Resident of Village – Gilani, P.S. -
Sare, District – Nalanda, At present posted as Asstt. Settlement Officer,
Begusarai.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 68322 of 2018)

For the Petitioner/s : Mr.Shashank Shekhar

For the Opposite Party/s : Mr.Sri Ajay Kumar Jha

(In CRIMINAL MISCELLANEOUS No. 69076 of 2018)

For the Petitioner/s : Mr.Bhaskar Shankar

For the Opposite Party/s : Mr.Sri Shantanu Kumar

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

5 15-04-2019 Heard learned counsel for the petitioners and learned
APP for the State.

The petitioners are apprehending their arrest in a case
registered for the offences punishable under Sections 302, 201
and 120B/34 of the Indian Penal Code.

The prosecution case as per the written report of
Bhola Yadav dated 16.10.2017 submitted to the Station House
Officer of Ghoswari Police Station is to the effect that that on
15.10.2017 at 6.00 P.M., co-accused Ramu Paswan came to the



brick kiln of the informant and requested the brother of the informant, Shashi Bhushan Yadav to go to Barbigaha to bring labourers. Thereafter, the brother of the informant went with co-accused Ramu Paswan along with Rs.1,50,000/- by a motorcycle but he did not return and his mobile phone was found switched off. In the meantime, one Ranjit Yadav informed Ghoswari P.S. that a dead body is lying near NH-82 which is of Shashi Bhushan Yadav. Thereafter, the informant along with police personnel reached at the place of occurrence and found his brother lying dead. The informant raised suspicion against Ramu Paswan, Sagar Yadav, Ram Awatar Yadav, Shishul Kumar and petitioners Sube Yadav and Bhuneshwar Yadav for the alleged occurrence.

It is submitted by learned counsel for the petitioners that admittedly, the informant is not an eye witness to the alleged occurrence and after investigation, the petitioners were not sent up for trial but differing with the final form, learned ACJM-III, Barh has passed order of cognizance vide order dated 11.06.2018. It is further submitted that co-accused Ram Paswan made confession before the police but has not named the petitioners. Though, the petitioners are accused in several cases but most of the cases have been lodged at the behest of the



informant.

Learned counsel for the informant submits that in the background of old enmity, the petitioners killed the brother of the informant, however, he admits that co-accused Ramu Paswan in his confessional statement has not named these petitioners. It is further submitted that the process under Section 82 Cr.P.C. has been issued against the petitioners and after issuance of process the petitioners and others scuffled with the Officer-in-Charge of the Ghoswari P.S. and thereafter, the police also lodged a case against them.

Learned APP after going through the case diary submits that the informant has raised suspicion against the petitioners, however, admits that co-accused Ramu Paswan has named other persons except the petitioners.

Considering the fact that the initial accusation is based on suspicion, on conclusion of the investigation, final form was submitted, petitioners have not been sent up for trial and this is not in dispute that the process under Section 83 Cr.P.C. has not been issued, coupled with the fact that co-accused Ramu Paswan has not named these petitioners in his confessional statement, let the above named petitioners be released on anticipatory bail in



the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-III, Barh in connection with Ghoswari P.S. Case No. 66 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

It is made clear that the learned Court below will positively cancel the bail bonds of the petitioners, if they get substantially involved in some serious nature of offence or default for two consecutive occasions.

(Dinesh Kumar Singh, J)

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