

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.17810 of 2020**

Arising Out of PS. Case No.-477 Year-2019 Thana- AURANGABAD TOWN District-
Aurangabad

=====

KOUSHALYA DEVI @ KOUSHALYA CHAURASIA @ SHUSHILA DEVI
Wife of Nandlal Prasad Chourasiya Resident of Village - Gandhinagar
(Vishnu Lodge), Ward No. 33, P.S.- Aurangabad (T), District- Aurangabad

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

=====

with
CRIMINAL MISCELLANEOUS No. 17946 of 2020

Arising Out of PS. Case No.-477 Year-2019 Thana- AURANGABAD TOWN District-
Aurangabad

=====

NANDLAL PRASAD CHOURASIYA Son of Late Bechan Prasad Resident
of Village - Gandhinagar (Vishnu Lodge), Ward No. 23, P.S.- Aurangabad (T),
District- Aurangabad

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

(In CRIMINAL MISCELLANEOUS No. 17810 of 2020)

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

For the Opposite Party/s : Ms.Nirmala Kumari, APP

For the Informant : Mr. Ashok Kumar, Advocate

(In CRIMINAL MISCELLANEOUS No. 17946 of 2020)

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

For the Opposite Party/s : Ms.Nirmala Kumari, APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 10-07-2020 Heard learned counsel for the petitioner(s) in both the

applications, Ms. Nirmala Kumari, learned A.P.P. for the State

and Mr. Ashok Kumar, learned counsel representing the

informant.

Cr. Misc. No. 17810/2020 has been filed by the wife



of the petitioner in Cr. Misc. No. 17946/2020. Both the petitioner(s) are seeking regular bail in connection with Aurangabad (T) P.S. Case No. 477 of 2019 registered for the offences under Section 323, 353, 186, 307, 302, 34 of the Indian Penal Code.

Learned counsel for the petitioner(s) submits that on perusal of the First Information Report it would appear that the informant and his deceased brother were allegedly residing in the lodge owned by these petitioner(s) and there was a dispute on account of the payment of rent. It is alleged that the house owner abused the informant and his other brothers and started throwing away their luggage from the lodge whereafter the scuffle took place in which the petitioner of Cr. Misc. No. 17946/2020 started abusing the informant and was pressing the neck of his brother. It is further alleged that he was treated in Sadar Hospital Aurangabad and information in this regard was given to the Town Police Station whereupon Mr. Sanjay Kumar, the Police Officer proceeded along with three brothers (informant and others) to have dialogue with the house owner and to convince him but despite knocking on the door the house owner did not open the door rather they started shouting Chor – Chor and it is alleged that the house owner (1) Nand Lal



Prasad Chaurasia (2) Wife of Nand Lal Prasad Chaurasia (3) Rabi Chaurasia (4) Vishnu Chaurasia and (5) Devesh Chaurasia all sons of Nand Lal Chaurasia started throwing bricks and stones from the roof of the house. The informant further alleged that one big size stone hit on the head of the brother of the informant because of which he got injury and fell down. The Police Officer also sustained injury. On way to hospital brother of the informant died.

Learned counsel for the petitioner(s) submits that in the First Information Report altogether five persons i.e. entire family of the petitioner(s) have been made accused. According to informant he along with his brother and the police officer had gone to the house of the petitioner(s) whereupon all named accused started throwing bricks and stones from the roof but learned counsel submits that it is difficult to understand that in the dead of night at about 11.30 P.M. when there is complete darkness how the informant could identify all the accused persons throwing the bricks and stones, doubting the version of the informant, learned counsel submits that it is a case of false implication of all the family members.

It is further submitted that so far as police officer is concerned, his injury report only shows abrasion in the left



finger and no other injury has been found on his body.

It is further submitted that from the medical examination report and the post-mortem report taken together it will appear that the deceased brother of the informant was first examined by the Doctor at 9.20 P.M. on 12.10.2019. At that time, he was having some abrasion and bruises but later on at 12.30 A.M. on 13.12.2019 he was found having one lacerated wound over volt and skull and that single injury was grievous injury which proved fatal. It is submitted that there are general and omnibus kind of allegations against all the accused persons and it is not known as to how the single grievous injury was caused on the head of the deceased.

Learned A.P.P. for the State as well as learned counsel for the informant have opposed the prayer for regular bail of these petitioner(s). Learned A.P.P. for the State has submitted that the learned court below has recorded some of the paragraphs of the case diary in the impugned order whereas the learned counsel for the informant has opposed the prayer for regular bail saying that these petitioner(s) are the owner of the lodge, hence they do not deserve privilege of regular bail.

Having regard to the facts and circumstances of the case as also on perusal of the records this court has noticed that



after the initial scuffle the informant and his deceased brother along with one police officer are said to have visited the house of the petitioner(s) at about 11.30 P.M. and while they asked the house owner to open the door, it is alleged that the house owner along with others named in the F.I.R. started throwing bricks and stones, the materials collected in course of investigation contain the statement of the member of the police party and the police officer all of them have reiterated the allegations as contained in the First Information Report, however in these paragraphs of the case diary none of the witness have stated that the injury suffered by the brother of the informant was caused by brick or stone thrown by either of these petitioner(s). The fact that the allegations are there against five accused persons throwing bricks and stones but there is only one injury on the head of the deceased and no other person including the informant and police officer has suffered any injury muchless on any vital part of the body and the only injury caused to the police officer is in the nature of the abrasion in the left ring finger which is said to be simple in nature, further gives an impression to this court that the allegations are in the nature of general and omnibus allegation, the petitioner(s) have remained in custody for about 7 months by now, investigation against



them is complete and trial is not likely to be concluded in near future, it is not the submission of learned A.P.P. for the State that release of these petitioner(s) is in any way likely to adversely affect the course of trial or tamper with the evidence, this Court directs release of the petitioner above-named on bail in connection with Aurangabad (T) P.S. Case No. 477 of 2019 on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction learned C.J.M., Aurangabad, subject to the conditions as laid down under Section 437(3) of the Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, or the commission of which he is suspected, and

(c) that such person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that he will abide by and observe the guidelines and directives of the Government of



India and the State Government with regard to COVID-19
Pandemic during the lockdown period. The authorities
concerned shall take appropriate steps to ensure such
observance prior to and after release of the petitioner(s).

(Rajeev Ranjan Prasad, J)

arvind/rajeev

U		T	
---	--	---	--

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

