

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64140 of 2019

Arising Out of PS. Case No.-61 Year-2019 Thana- BALIA BELON District- Katihar

1. Sohail Ahmad @ Md. Sohail Son of Bahrudin
2. Intekhab @ Md. Intekhab @ Intikhab Alam Son of Sohail Ahmad @ Md. Sohail
Both residents of Village- Shikarpur, P.S.- Balia Belon, Disrict- Katihar.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

with

CRIMINAL MISCELLANEOUS No. 65803 of 2019

Arising Out of PS. Case No.-61 Year-2019 Thana- BALIA BELON District- Katihar

Md. Wajir @ Md. Wajair Son of Sohail Ahmad @ Md. Sohail, resident of Village-Shikarpur, P.S.-Balial-Belon, District-Katihar.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 64140 of 2019)

with

(In CRIMINAL MISCELLANEOUS No. 65803 of 2019)

For the Petitioner/s : Mr. N.K.Agrawal, Sr. Adv.
Mr.Md. Qumrul Hoda, Adv.

For the State :Mr.Surendra Prasad Singh
Mr.Ram Priya Sharan Singh

For the Informant : Mr. Md. Helal Ahmad, Adv.
Mr. Vikas Kumar Shukla, Adv.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 23-01-2020 Since both the cases arise out of the same F.I.R., both

bail petitions were taken up together for considering the prayer

for bail of the petitioners and are being disposed of by this



common order.

Heard learned counsel for the petitioners, learned counsel for the State as well as learned counsel for the informant.

Petitioners seek bail in connection with Balia Belon P.S. Case No.61 of 2019 registered for the offence under Sections 341, 323, 302/34 of the Indian Penal Code.

Prosecution case is that all F.I.R. named accused were assaulting the brother-in-law (Dever) (brother of the deceased) of the informant by tying with rope and on hulla, while the husband of the informant went to rescue him, on the instigation of the accused petitioner Sohail Ahmad to kill him (deceased), accused petitioner Intekhab tied the husband of the informant (deceased) and accused petitioner Md. Wajair assaulted her husband with iron rod and, thereafter, accused Tufail and Shamsuzzama also assaulted with rod, as a result of which he died on the spot.

It is submitted on behalf of the petitioners that the petitioners have falsely been implicated in the present case. It is submitted that as per the F.I.R. accused Sohail Ahmad (petitioner no.1 in Cr.Misc.No.64140 of 2019) is alleged to be order giver and accused Intekhab (petitioner no.2 in Cr.Misc.No.64140 of



2019) is alleged to have tied the deceased and accused Md. Wajair Ahmad (petitioner in Cr.Misc.No. 65803 of 2019) and other accused are alleged to have assaulted the deceased with iron rod. He has submitted that there is no specific overt act against the petitioners. Learned counsel for the petitioners has drawn my attention to the postmortem report (Annexure-2) and submits that the deceased has died due to mechanical asphyxia, which does not corroborate the prosecution case. The petitioners have remained in custody for about seven months having no criminal antecedent.

Considering the aforesaid facts and circumstances, let the petitioners, namely, Sohail Ahmad @ Md. Sohail and Intekhab @ Md. Intekhab @ Intikhab Alam (both petitioners in Cr.Misc.No.64140 of 2019), be released on bail on furnishing bail bond of Rs.10,000/-(ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Katihar in connection with Balia Belon P.S. Case No. 61 of 2019 on the following conditions:-

(1) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and their absence on two consecutive dates without sufficient



reason, their bail bond shall be cancelled by the court below.

(2) If the petitioners tamper with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.

So far as petitioner Md. Wajir @ Md. Wajair in Cr.Misc.No.65803 of 2019 is concerned, I am not inclined to enlarge the petitioner on bail since he is one of the assailant. Accordingly, the prayer for bail of the petitioner Md. Wajir @ Md. Wajair is rejected.

(Prabhat Kumar Singh, J.)

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