

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25296 of 2021

Arising Out of PS. Case No.-224 Year-2020 Thana- BIRAUL District- Darbhanga

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1. CHHOTU SAHU @ CHHOTE SAHU S/O LATE AMRIT SAHU R/O VILLAGE-ANDHIARI DEOKULI, POLICE STATION-BIRAUL, DISTRICT-DARBHANGA.
 2. SANJEET SAHU S/O CHHOTU SAHU @ CHHOTE SAHU R/O VILLAGE-ANDHIARI DEOKULI, POLICE STATION-BIRAUL, DISTRICT-DARBHANGA.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nilendu Kumar Choudhary

For the Opposite Party/s : Mr. Arvind Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

3 06-12-2021 The applicants/accused in Crime No. 224 of 2020, registered with Biraul Police Station for the offences punishable under Sections 341, 323, 324, 302 and 34 of the Indian Penal Code at the instance of first informant, Gurudev Sahu, by this application is seeking release on bail during the pendency of the trial.

It is reported that they are behind Bars from 07.11.2020.

Heard the learned counsel appearing for the applicants/accused. By drawing attention to the FIR, it is argued that element of intention leave apart the common intention is absolutely absent. The learned counsel for the applicant further

argued that version of the prosecution case reflected in the FIR is totally contradictory to the findings of the autopsy.

The learned Prosecutor assisted by the learned counsel for the first informant opposed the applicant by contending that applicants are named as assailant in the FIR.

Considering the submissions so advanced and also perused the charge sheet.

The incident took place on 05.07.2020 on the land which is claimed by first informant Gurudev Sahu. Allegations are to the effect that his father Laddu Sahu, came to be murdered by the applicants along with the co-accused. The first informant claimed that when the applicants and the co-accused were erecting of pillar on his land, his father Laddu Sahu (deceased) objected. Upon that applicant Sanjeet Sahu, gave exhortation to kill Laddu Sahu and then applicant, Chotte Sahu, gave a blow of Farsa on neck of Laddu Sahu. It is further alleged that co-accused Ramvir Sahu, who is already released on bail by the trial Court then gave a blow of an iron rod on head of Laddu Sahu.

If these averments are tested with the report of post-mortem examination of the deceased then it is seen that the deceased had suffered once small bruise of size $\frac{1}{2}$ inch x $\frac{1}{4}$ inch

over mid forehead black in colour. There was swelling of an inch diameter over Mid occipital region. In other words, there are no marks of injury by Farsa on neck of the deceased.

Considering this nature of the evidence against the applicants/accused who are under going pre-trial detention, there is no other alternative but to release them on bail during pendency of the trial and hence, the following order:-

- i. The application is allowed.
- ii. The applicant/accused in Crime No. 224 of 2020, registered with Biraul Police Station for the offences punishable under Sections 341, 323, 324, 302 and 34 of the Indian Penal Code, be released on bail on executing P.R. bond of Rs.10,000/- (Rupees Ten Thousand) each on furnishing surety of the like amount to the satisfaction of the trial Court with the following conditions :-

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicants/accused should cooperate the trial Court in expeditious disposal of the trial against him.

(III) The applicants/accused should not contact the

members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicants should not repeat commission of similar offence in future and if they are found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicants to remove all office objections forthwith and Registry to issue bail-writ as per this order only after removal of office objections by the appellants/accused.

(A. M. Badar, J)

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