

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34780 of 2020

Arising Out of PS. Case No.-21 Year-2020 Thana- SONBERSA District- Sitamarhi

MUKESAH KUMAR @ MUKESH MAHTO Resident of Village- Matiyar
Kala, P.S. Sahiyara, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 37138 of 2020

Arising Out of PS. Case No.-21 Year-2020 Thana- SONBERSA District- Sitamarhi

1. KRIPAL MAHTO S/o Dipa Mahto R/o village- Matiar Kalan, P.S.-
Sahiyara, District- Sitamarhi (Bihar)
2. Sanjay Mahto S/o Khebai Mahto R/o village- Matiar Kalan, P.S.- Sahiyara,
District- Sitamarhi (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 34780 of 2020)

For the Petitioner/s : Mr. N. K. Agrawa, Sr. Adv.

Mr. Dinesh Jha, Adv.

For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP

For the Informant : Mr. Atul Kumar Jha, Adv.

(In CRIMINAL MISCELLANEOUS No. 37138 of 2020)

For the Petitioner/s : Mr. Shankar Kumar, Adv.

For the Opposite Party/s : Mr. Umanath Mishra, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 01-03-2021 Heard Mr. N.K. Agrawal, learned senior counsel for

the petitioner in Cr. Misc. No. 34780/2020, Mr. Shankar Kumar,

learned counsel for the petitioners in Cr. Misc. No. 37138/2020,

Mr. Atul Kumar Jha for the informant in both the cases and

learned APPs for the State.

2. Since both the aforesaid regular bail applications



arise out of a common FIR, they are being heard and decided together with the consent of the parties.

3. Petitioners seek regular bail in connection with Sonbarsa PS Case No. 21/2020 registered for the offence punishable under Sections 120(B), 302/34 of the IPC and Section 27 of the Arms Act.

4. The allegation, as per First Information Report, is that the first son of the informant was killed earlier by some of the co-accused persons named therein and there was a pressure upon the informant to compromise the matter and when the informant refused to compromise that case and accused persons therein were convicted, the petitioners along with other accused persons eleven in numbers, killed another son of the informant, who was the prime witness in the first case. It has further been alleged that on the date of occurrence, the petitioners and others were seen moving around the village on motorcycles and on other vehicles and the son of informant was found dead having bullet injury at about 1:00 PM afternoon.

5. Learned senior counsel for the petitioners submits that the petitioners have not committed any offence in the manner alleged and they have falsely been implicated in the matter merely on the basis of suspicion that the petitioners were



seen moving around the village on the date of occurrence and no cogent evidence has come up against the petitioners to implicate them in the present offence. Learned counsel further submits that the dead body of the deceased was found in a broad day light at about 1:00 PM in the afternoon and no eyewitness or any other witness has come to depose against the petitioners during course of investigation.

6. Learned counsel next submits that in para-40 of the case diary, confessional statement of the co-accused, Sikandar Mukhiya has been recorded by the police, who has disclosed that co-accused, Shailendra Mahto had given him contract for killing the son of the informant. Learned counsel further submits that even in the confessional statement of the co-accused, names of the petitioners have not transpired.

7. On the other hand, learned counsel for informant vehemently, opposed the prayer for bail of the petitioners and submits that petitioners were seen moving around in a suspicious condition on the date of occurrence and they are closely associated with the accused persons of the first case and since the informant did not agree to compromise the first case, his son has been killed. Learned counsel next submits that in para-95 of the case diary this fact has come that allegation



against the petitioners and others was found true. Learned counsel also submits that in para-74 of the case diary, CDR of the petitioners shows that they were seen around the place of occurrence and the locations of their mobile phones were seen around the place of occurrence.

8. Learned APPs appearing for the State submit that in the postmortem report, only one injury was found on the person of the deceased.

9. Learned counsel for the petitioners relying upon the genealogical table as mentioned in the supplementary affidavit submits that petitioners do not belong to family members of accused persons who have been convicted in the first case.

10. Having regard to the submissions made by the parties and taking into consideration the material on record and the nature of allegation and the fact that petitioners are in custody since 06.07.2020 and 29.01.2020 respectively, I am inclined to grant regular bail to the petitioners.

11. Accordingly, let the petitioners, MUKESAH KUMAR @ MUKESH MAHTO (Cr. Misc. No. 34780/2020), KRIPAL MAHTO and SANJAY MAHTO (Cr. Misc. No. 37138/2020) 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, Sitamarhi in connection with Sonbarsa PS Case No. 21/2020/the court concerned.

12. It is made clear that at the time of furnishing bail bonds all the parties shall follow the guidelines of social distancing.

(Anil Kumar Sinha, J)

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