

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4757 of 2021

Arising Out of PS. Case No.-499 Year-2020 Thana- BANKA District- Banka

KISHUNDEO YADAV S/o Uma Yadav R/o Village- Bhadariya, P.S.- Banka,
District- Banka

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 6295 of 2021

Arising Out of PS. Case No.-499 Year-2020 Thana- BANKA District- Banka

LALITA DEVI WIFE OF KISHUNDEO YADAV R/o village- Bhadariya,
P.S.- Banka, District- Banka

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 4757 of 2021)

For the Petitioner/s : Mr.Ajay Mukherjee

For the Opposite Party/s : Mr.Ranjan Kumar Jha

Mr.Vikas Kumar

For the State : Mr.Shailendra Kumar

(In CRIMINAL MISCELLANEOUS No. 6295 of 2021)

For the Petitioner/s : Mr.Ajay Mukherjee

For the Opposite Party/s : Mr.Ranjan Kumar Jha

Mr.Vikas Kumar

For the State : Mr.Binod Kumar

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 27-08-2021 Heard learned counsel for the parties through virtual court proceeding.

Learned counsel for the petitioner (in Cr. Misc. No.6295 of 2021) undertakes to remove the defects within four weeks of resumption of normal court proceeding. In the eventuality of



non-removal of defects within undertaken period, office will place the matter before the Bench.

The petitioners seek bail in connection with Banka P.S. Case No.499 of 2020, registered for the offence punishable under Sections 341, 342, 302/34 of the Indian Penal Code and section 7 (C) of Protection from lynching Act, 2017.

The prosecution case in short is that informant got information that petitioner Kishundeo Yadav was assaulting his son Mahesh Yadav on his house after tying in pillar of verandah. It is further alleged that on that information informant and others reached there and saw that several accused persons were assaulting his son after tying him. Seeing the informant accused persons returned showing lathi danda and said come this side will killed. It is further alleged that informant informed to police through mobile and when the police reached there then his son died.

It is submitted by learned counsel for the petitioners that petitioners are quite innocent and have not committed any offence as alleged in the FIR. No offence as alleged has ever taken place. They have been falsely implicated in this case due to dirty village politics. The informant is not an eye witness of the occurrence. From perusal of First Information Report, it



appears that there is no any specific role of assault has been alleged against the petitioner. The allegation against the petitioner is general and omnibus in nature. From perusal of post-mortem report it is evident that injuries are bruise in nature i.e. not the cause of death and therefore, viscera has been preserved for F.S.L. The petitioners have no criminal antecedent and have been languishing in custody since 25.06.2020.

Learned APP for the State and learned counsel for the informant opposed the prayer for bail by submitting that the petitioners are the main assailants and the wife of petitioner Kishundeo Yadav i.e. petitioner no.2 has called the deceased in her house and they have assaulted the son of informant due to which he died on the spot. It is further submitted that there is eye-witness in the present case. From paragraph-6 and 7 of the case diary it is clear that witnesses have supported the prosecution case and post mortem report also shows bruise over whole body.

On perusal of the case diary, post mortem report and the submissions of the parties, it is evident that there is general and omnibus allegation against the petitioners and they have no criminal antecedent coupled with the fact that manner of



occurrence has not been explained properly, accordingly, petitioners in both the cases, named above are directed to be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate/Successor Court, Banka, in connection with Banka P.S. Case No.499 of 2020, subject to the following conditions:

(1) One of the bailors of each petitioners will be own close relative of the petitioners who will give on affidavit genealogy as to how they are related to petitioners. The bailors will also undertake to inform the court if there is any change in the address of the petitioners.

(2) The bailors shall also state on affidavit that they will inform the court concerned if the petitioners are made accused in any other case of similar nature after their release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(3) The petitioners shall remain physically present in the court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, their bail bonds shall be liable to be cancelled by the learned court



concerned.

(4) The petitioners shall co-operate with the investigation, if not already concluded and make himself available and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjani Kumar Sharan, J)

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