

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3133 of 2022

Arising Out of PS. Case No.-276 Year-2017 Thana- RAJPUR District- Buxar

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Jay Prakash Lal @ Jay Prakash Pal S/o Ram Kumar Pal Resident of Village-
Khiri, P.S.- Rajpur, District- Buxar, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 3233 of 2022

Arising Out of PS. Case No.-276 Year-2017 Thana- RAJPUR District- Buxar

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Hira Lal Pal @ Hira Pal S/o Ram Charitra Pal R/o- Village- Khiri, P.S.-
Rajpur, District- Buxar, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 3133 of 2022)

For the Petitioner/s : Mr.Sudha Chandra, Advocate

For the Opposite Party/s : Mr.Murli Dhar,APP

(In CRIMINAL MISCELLANEOUS No. 3233 of 2022)

For the Petitioner/s : Mr.Surendra Kumar Singh,Advocate

For the Opposite Party/s : Mr.Mithlesh Kumar Khare,APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 02-11-2022 Heard learned counsel for the petitioners and learned
APP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioners seek bail in
connection with POCSO Case No. 04 of 2018 arising out of
Rajpur P.S. Case No. 276 of 2017 registered for the alleged

offences under Sections 363, 365, 302, 201 and 377 of the Indian Penal Code and under Section 4 of the POCSO Act.

As per prosecution case, the minor son and nephew of the informant went missing and a case was registered against unknown. While, trial was underway, the name of the petitioners transpired as accused persons in the deposition of witnesses.

Learned counsel for the petitioners submits that petitioners have been falsely implicated in this case by the informant at a belated stage after a year. Even during examination, informant did not raise any suspicion against the petitioners and even none of his family members who were examined during investigation named the petitioners for any wrong doing. Co-accused Rishi Pal was arrested and he confessed his guilt but even he did not name the petitioners in any manner. For the first time, the name of the petitioners came up in the deposition of witness Shiv Prasad Pal who was examined on 12.10.2018. But, he named the petitioners on saying of co-villagers. Further, the sister-in-law of the informant and mother of one of the victims was examined on 07.03.2018 and she named co-villager Uma Sah who stated that the petitioners along with co-accused took away his son and nephew with them. But this co-villager Uma Sah died on 24.04.2018 and it was convenient for the prosecution side to take the name of this villager as no one could make any query from

him. The whole evidence against the petitioners has been based on the statement of Uma Sah who is no more. It is also apparent from the deposition of witnesses that they were told by the involvement of the petitioners just after the occurrence but they did not disclose this fact to the police for a year and this creates doubt over the statement of the witness. Thereafter, on a petition being moved under Section 319 Cr.P.C., the petitioners were made accused in this case without any substantive material. The reason for false implication is that there had been an accidental fire in the *marai* of the informant and his family suspected the hands of the petitioners and for this reason they have been named in this case. Charge sheet has been submitted in this case and the petitioner are in custody since 04.12.2021. They are having clean antecedent.

Learned APP for the State opposes the submission made on behalf of the petitioners. Learned APP submits that the witnesses have named the petitioners for their involvement in the kidnapping and murder of the son and nephew of the informant.

Perused the records.

Having regard to the facts and circumstances and considering the submission made on behalf of the parties and the distinct lack of materials regarding involvement of the petitioners in the offence as alleged with circumstances as already discussed, the petitioners above named are directed to be released on bail on

furnishing bail bond of Rs. 20,000/- (twenty thousand)each with two sureties of the like amount each to the satisfaction of learned 6th Additional District and Sessions Judge-cum-Special Judge, POCSO, Buxar in connection with POCSO Special Case No. 04 of 2018 arising out of Rajpur P.S. Case No. 276 of 2017, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioners will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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