

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68567 of 2021

Arising Out of PS. Case No.-78 Year-2021 Thana- NAGARNAUSA District- Nalanda

Bharat Chaudhary, S/o Pyare Chaudhary, Resident of Village- Ashrafpur, P.S.-
Nagar Nausha, District- Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 3706 of 2022

Arising Out of PS. Case No.-78 Year-2021 Thana- NAGARNAUSA District- Nalanda

Bittu Choudhary @ Bittu Kumar Choudhary, Son of Sahdeo Choudhary, R/O
Village- Ashrafpur, P.S.- Nagarnausa, District- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 68567 of 2021)

For the Petitioner/s : Mr.Ajay Kumar Sinha, Advocate

For the Opposite Party/s : Mr.Bharat Lal, APP

(In CRIMINAL MISCELLANEOUS No. 3706 of 2022)

For the Petitioner/s : Mr.Birendra Kumar, Advocate

For the Opposite Party/s : Mr.Mohammed Arif, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 21-09-2022 Since both the applications arise out of Nagarnausa

P.S. Case No. 78 of 2021, as such, they have been taken up

together and are being disposed of by this common order.

Heard learned counsels 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 from the date of

resumption of physical filing and physical removal of defect.



In the present case, the petitioners seek bail in connection with Nagarnausa P.S. Case No. 78 of 2021 registered for the alleged offences under Sections 147, 149, 323, 325, 452 and 302 of the Indian Penal Code.

As per prosecution case, the petitioners and other co-accused persons forcibly entered into the house of the informant and assaulted her husband with fists, slaps and legs and they took him outside the house. Husband of the informant fell down after receiving injuries and later on he died. The informant was also assaulted by the petitioners and other co-accused.

The learned counsels for the petitioners submit that the petitioners are innocent and have been falsely implicated in this case. No occurrence as alleged has ever taken place. From the facts of the FIR, it is clear that no specific overt act has been attributed to any of the petitioners. The allegation of assault is against all six accused persons. No external injury was found on the body of the husband of the informant and post-mortem report shows only black mark was present on the umbilicus caused by hard heavy blunt substance. It is apparent from the FIR, there is no allegation that accused persons were assaulting the deceased with heavy hard blunt substance. So the allegation of assault to the deceased by the petitioners is not supported by



the post-mortem report. In fact, the deceased had been killed by some unknown persons and the dead body was thrown in the field in front of the door of the informant and thereafter this false case has been lodged. The petitioners and other co-accused persons were implicated in this case due to previous enmity. The petitioners were found in his house when the police went to arrest them and this shows the innocence of the petitioners. Even if the facts are taken to be true, only offence under Section 304 of IPC would be made out against the petitioners as there was no intention or knowledge attributed to the petitioners. The petitioners are in custody since 07.06.2021 and 05.10.2021, respectively and charge-sheet has been submitted against them.

Learned APP opposes the prayer for bail submitting that there is specific allegation against the petitioners that they forcibly entered into the house of the informant and assaulted her husband causing his death. Petitioner Bharat Chaudhary is having criminal antecedent.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the general and omnibus allegations against the petitioners without any specific overt act being attributed to them and further considering the lack of visible injuries on the persons of the husband of the informant as observed



during post-mortem and also considering their period of custody along with submission of charge-sheet, the petitioners above named are directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Court of Sub-Divisional Judicial Magistrate, Hilsa, Nalanda in connection with Nagarnausa P.S. Case No. 78 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) The bail bond of petitioner **Bharat Chaudhary** will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close relative of the petitioners.
- (iii) The petitioners will remain present on each and every date fixed by the court below.
- (iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the petitioners will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

balmukund/-

U		T	
---	--	---	--

