

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3931 of 2022

Arising Out of PS. Case No.-369 Year-2020 Thana- CHAINPUR District- Kaimur (Bhabua)

1. Rakesh Chourasia, Son of Mahendra Prasad Chourasia @ Mahendra Barai, Resident of Village - Hata, P.s.- Chainpur, Distt.- Kaimur.
2. Radheshyam Chourasia, Son of Mahendra Prasad Chourasia @ Mahendra Barai, Resident of Village - Hata, P.s.- Chainpur, Distt.- Kaimur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 4357 of 2022

Arising Out of PS. Case No.-369 Year-2020 Thana- CHAINPUR District- Kaimur (Bhabua)

Mahendra Chourasia @ Mahendra Prasad Chourasia @ Mahendra Barai, Son Of Late Nagina Chourasia, R/O Village- Hata, P.S.- Chainpur, District- Kaimur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 3931 of 2022)

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

For the Opposite Party/s : Mr.Mukeshwar Dayal, APP

(In CRIMINAL MISCELLANEOUS No. 4357 of 2022)

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

For the State : Md. Mushtaque Alam, APP

For the Informant : Mrs. Alka Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

5 06-12-2022 Since both the applications arise out of Chainpur P.S. Case No. 369 of 2020, as such, they have been taken up together and are being disposed of by this common order.

Heard learned counsel for the petitioners and learned APP for the State as well as learned counsel for the informant.

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 Chainpur P.S. Case No. 369 of 2020 registered for the alleged offences under Sections 302 and 120(B)/34 of the Indian Penal Code.

As per prosecution case, in the background of love affair of the son of the informant, he was murdered by the petitioners and the co-accused and the dead body of the informant was thrown at the doors of the informant.

The learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case in the background of dispute between two sides over love affair of the deceased. No occurrence as alleged has ever taken place. There is no eye-witness to the alleged occurrence and informant is also not an eye-witness. Except for suspicion, there no tangible material against the petitioners to show their complicity in the occurrence. The dead body was recovered from the doors of the informant. The son of the informant has committed suicide and the doctor in his post-mortem report has found the death to be suicidal caused due to hanging. Even the police did not find the case true under Section 302 IPC charge-sheet has been submitted under Section 306/34 of IPC against



the petitioners. There is no evidence against the petitioners to establish that there was instigation, provocation, incitement or encouragement from the side of the petitioners to the deceased for committing the suicide. Learned counsel further submits that though prosecution evidence is being recorded but due to slow pace of trial there is no possibility of conclusion of trial in near future. The petitioners are in custody since 05.08.2021. The petitioners are having clean antecedent.

Learned APP as well as learned counsel for the informant vehemently oppose the submission made on behalf of the petitioners. Learned counsel for the informant submits that there is specific allegation against the petitioners that they killed the son of the informant. Learned counsel further submits that the learned trial court differed from the police report and took cognizance under Section 302/34 of IPC and prosecution evidence is being recorded and altogether five witnesses have been examined.

Perused the records.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the lack of substantive material against the petitioners to connect them with the offence as alleged and further considering the



period of custody of the petitioner and also considering the fact that trial may not be concluded within a reasonable time, 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 Additional Chief Judicial Magistrate-V, Kaimur at Bhabhua, in connection with Chainpur P.S. Case No. 369 of 2020, 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 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 bonds of the petitioners will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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