

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69657 of 2021

Arising Out of PS. Case No.-495 Year-2021 Thana- MAHUA District- Vaishali

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Mukesh Kumar @ Mukesh Chaudhary Son of Bisun Choudhary Resident of
village - Mahua Mukundpur (Jawahar Chowk), P.S.- Mahua, District -
Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 4907 of 2022

Arising Out of PS. Case No.-495 Year-2021 Thana- MAHUA District- Vaishali

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Kamlesh Chaudhary S/O Late Vishun Chaudhary R/o village- Mahua,
Mukandpur, P.S.- Mahua, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 69657 of 2021)

For the Petitioner/s : Mr.Rudal Singh, Advocate

For the Opposite Party/s : Md. Mushtaque Alam, APP

(In CRIMINAL MISCELLANEOUS No. 4907 of 2022)

For the Petitioner/s : Mr. Krishna Pd. Singh, Sr. Advocate

Mr.Shashank Shekhar, Advocate

For the Opposite Party/s : Mr.Dilip Kumar No. 1, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 20-07-2022 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 from the date of

resumption of physical filing and physical removal of defect.



In the present case, the petitioners seek bail in connection with Mahua P.S. Case No. 495 of 2021 registered for the alleged offences under Sections 328, 302, 120 (B) of the Indian Penal Code.

The prosecution case is that the petitioner Kamlesh Choudhary invited the husband of the informant on a feast and it is alleged that this petitioner along with Mukesh Choudhary poisoned the husband of the informant causing his death.

It has been submitted on behalf of the petitioner- Mukesh Choudhary that initially he was not named in the FIR, but later on he was made an accused saying that he was involved in conspiracy of murder of the husband of the informant. There is nothing on record of any substance to implicate this petitioner. The cause of death as ascertained by the viscera report has been stated to be due to consumption of Ethyl Alcohol and Methyl Alcohol. The petitioner has no knowledge about where and how the deceased consumed the prohibited liquor. The charge sheet has been submitted in this case and this petitioner is in custody since 14.08.2021 and is having clean antecedent.

The learned counsel appearing on behalf of the petitioner-Kamlesh Chaudhary submits that the prosecution case



is based on false allegations that this petitioner called the husband of the informant on a feast. In fact, own brother of this petitioner died on 31.07.2021 and the petitioner was under mourning and he could not have called any person for feast for at least ten days, whereas the occurrence is said to be taken place on 06.08.2021. Learned counsel further stressed on the fact that the deceased died by consuming the liquor. Moreover, enmity due to financial transaction cannot be ruled out as it is an admitted fact in the FIR. Learned counsel further submits that the charge sheet has been submitted in this case and the petitioner is in custody since 01.09.2021.

Learned APP opposes the prayer for bail submitting that the liquor was served by the petitioners causing death of the husband of the informant and the petitioner Kamlesh Chaudhary is having criminal antecedents.

Perused the records.

Having regard to the submissions made hereinabove and considering the fact that there is vague allegation without any substantive material to show that the petitioners were involved in serving the poisonous liquor to the deceased, husband of the informant and further considering their period of custody, the petitioners 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 Chief Judicial Magistrate, Vaishali at Hajipur in connection with Mahua P.S. Case No. 495 of 2021, subject to the following conditions :

(i) The bail bond of the petitioner, namely, Kamlesh Chaudhary will be accepted only after framing of charge, if not already framed.

(ii) One of the bailors will be the 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)

V.K.Pandey/-

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