

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71300 of 2021

Arising Out of PS. Case No.-118 Year-2021 Thana- CHANDAN District- Banka

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PARMESHWAR YADAV Son of Nunulal Yadav Resident of Village - Biyahi,
Police Station - Chandan, District - Banka.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 71597 of 2021

Arising Out of PS. Case No.-118 Year-2021 Thana- CHANDAN District- Banka

- =====
1. Sanjay Yadav Son of Birendra Yadav Resident of Village - Biyahi Tola Parhi, P.S - Chandan , Dist- Banka
 2. Ajay Yadav @ Ajay Kumar Yadav Son of Umesh Yadav Resident of Village - Biyahi Tola Parhi , P.S - Chandan , Dist- Banka

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 1987 of 2022

Arising Out of PS. Case No.-118 Year-2021 Thana- CHANDAN District- Banka

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SHAMBHU YADAV S/o Suphal Yadav R/o village- Biyahi, P.S.- Chandan,
District- Banka

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 5951 of 2022

Arising Out of PS. Case No.-118 Year-2021 Thana- CHANDAN District- Banka

=====

JEEVLAL YADAV Son of Late Kaily Yadav Resident of Village - Biyahi,
P.s.- Chandan, Distt.- Banka.

... .. Petitioner/s



Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 71300 of 2021)

For the Petitioner/s : Mr.Ajay Mukherjee

For the Opposite Party/s : Mr.Satyendra Narayan Singh

(In CRIMINAL MISCELLANEOUS No. 71597 of 2021)

For the Petitioner/s : Mr.Ajay Mukherjee

For the Opposite Party/s : Mr.Manoj Kumar

(In CRIMINAL MISCELLANEOUS No. 1987 of 2022)

For the Petitioner/s : Mr.Ajay Mukherjee

For the Opposite Party/s : Mr.Nagendra Prasad

(In CRIMINAL MISCELLANEOUS No. 5951 of 2022)

For the Petitioner/s : Mr.Ajay Mukherjee

For the Opposite Party/s : Mr.Ram Priya Sharan Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 30-06-2022 Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

Heard learned counsel for the petitioners and learned A.P.P. for the State.

The petitioners seek bail in connection with Chandan P.S. Case No. 118/2021 registered for the offences punishable under Sections 147, 148, 149, 452, 323, 324, 307, 302, 120(B) of the Indian Penal Code.

As per prosecution case, on 29.07.2021 the petitioners were abusing the Bhabhi of the informant, Gudiya Devi due to dispute of passage and when she protested, the petitioners alongwith others brutally assaulted her alongwith whole family members of the informant. It is further alleged that during the assault, co-accused Umesh Yadav, caught hold the informant's



father, namely, Damrudhar Yadav and gave order to his associates to kill informant's father upon which co-accused Birendra Yadav assaulted informant's father with iron rod. It is further alleged that petitioner Ajay Yadav gave farsa blow on the head of Kiran Devi causing injury and petitioner Sanjay Yadav gave sickle blow on the head of Neelam Devi causing injury. Petitioner Shambhu Yadav gave axe blow on the head of Gudiya Devi causing injury. Petitioner Jeevlal Yadav assaulted Baikunth Yadav and Kamdev Yadav with sword causing injury on their hands, legs and heads. The petitioners alongwith other accused persons were assaulting the informant's father intending to kill him, but on hulla, the villagers came and in the meantime, all accused persons fled away. Thereafter, the injured were taken to Primary Health Centre, Chandan where the informant's father Damrudhar Yadav became serious and during treatment he died.

Learned counsel for the petitioners submits that petitioners are innocent and have falsely been implicated in this case due to land dispute. The petitioners are languishing in custody since 31.07.2021 and the petitioners bear no criminal antecedent except petitioner Shambhu Yadav who bears criminal antecedent of one case in which he is on bail. There is specific allegation against co-accused, namely, Birendra Yadav who



assaulted the victim (deceased) by means of iron rod causing head injury. He further submits that there is allegation of assault upon Kamdev Yadav against petitioner Jeevlal Yadav by means of sword on the head but the injury report shows that injury is simple in nature caused by hard and blunt substance. He further submits that there is allegation of assault on the body of Baikunth Yadav but the injury report of Baikunth Yadav shows that injury is caused by hard and blunt substance denying the alleged fact of using sword and the said injury is on non-vital parts of the body. Injured Bimla Devi has also sustained grievous injury caused by hard blunt substance and the said injury is on non-vital parts. He further submits that there is allegation of assault by means of farsa on the head of Kiran Devi against petitioner Ajay Yadav but the injury report of Kiran Devi does not corroborate with the allegation as she received simple injury caused by hard and blunt substance. He further submits that there is allegation of assault by means of sickle on the head of Neelam Devi against petitioner Sanjay Yadav but the injury report of Neelam Devi does not corroborate with the allegation as she received simple injury caused by hard and blunt substance. He further submits that there is allegation of assault by means of axe blow on the head of Gudiya Devi



against petitioner Shambhu Yadav but the injury report of Gudiya Devi does not corroborate with the allegation as she received simple injury caused by hard and blunt substance. He further submits that as per prosecution case there was previous enmity due to land dispute. The informant is not eye witness of the occurrence. As per FIR, the petitioners are not the assailant of the deceased. There is allegation of conspiracy against petitioner Parmeshwar Yadav. Charge sheet has been submitted in this case and there is no likelihood of tampering the evidence.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioners.

Considering the facts and circumstances of the case, period of custody, charge sheet has already been submitted and the main allegation of assault upon the deceased is against co-accused Birendra Yadav and the petitioners are not assailant of the deceased, all the injuries of the injured are simple in nature caused by hard and blunt substance except injury of Bimla Devi and Baikunth Yadav which are grievous in nature but said injuries are on non-vital parts of the body and also taking into consideration the material available on record, let the petitioners above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the



like amount each to the satisfaction of learned Chief Judicial Magistrate/Court concerned, Banka, in connection with Chandan P.S. Case No. 118/2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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