

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67222 of 2021

Arising Out of PS. Case No.-100 Year-2021 Thana- BAKHARI District- Begusarai

Vikram Kumar @ Bittu Kumar Chaudhary, S/o Late Mahendra Choudhary
R/o Village- Salauna, P.S.- Bakri, District- Begusarai.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 7662 of 2022

Arising Out of PS. Case No.-100 Year-2021 Thana- BAKHARI District- Begusarai

1. Sonu Kumar Swarnkar S/O Naresh Sah @ Khesahri Swarnkar, R/o village- Salauna, Ward No. 09, P.S.- Bakhari, District- Begusarai
2. Raj Kumar Yadav @ Raja Kumar S/o Shankar Yadav, R/o village- Salauna, Ward No. 07, P.S.- Bakhari, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 67222 of 2021)

For the Petitioner/s : Mr.Shubhesh Pandey, Advocate

For the Opposite Party/s : Md. Shakir Ahmad, A.G

(In CRIMINAL MISCELLANEOUS No. 7662 of 2022)

For the Petitioner/s : Mr.Shubhesh Pandey, Advocate

For the Opposite Party/s : Mr. Nitya Nand Tiwary, A.G.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 13-09-2022 Since both the applications arise out of Bakhri P.S.

Case No. 100 of 2021 as such, they have been heard together

and are being disposed of by this common order.

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 Bakhri P.S. Case No. 100 of 2021 registered for the alleged offences under Sections 302, 201 and 34 of the Indian Penal Code.

As per prosecution case, the informant alleged that the petitioners took away the son of the informant with them for celebrating holi and thereafter when he did not return, a search was made for him. Next evening, the informant came to know that his dead body was found in a river and the informant identified the dead body of his son. The informant alleged that the petitioner and other co-accused took away his son and after killing him threw the dead body in river.

Learned counsel for the petitioners submits that petitioners are innocent and have been falsely implicated in this case. The whole occurrence is based on suspicion as there is no eye witness to the actual occurrence and none has even seen the petitioner with the deceased. There is inordinate delay in lodging the F.I.R. as for an occurrence dated 29.03.2021 the F.I.R. has been registered on 01.04.2021 and there is no



explanation for the same. Post-mortem was done without institution of the F.I.R. Learned counsel further submits that petitioner has no concern with the deceased or his family members and without any motive or intention, as such there could be no question of killing a person. The informant, and his family members are themselves accused in the murder of one Amarjeet Kunwar for which Bakhri P.S. Case No. 132 of 2010 has been registered. The son of the informant might have been killed in some other transaction related to the enmity with other persons. If the informant or any person had the knowledge that the son of the informant was taken away by the petitioners and when he did not return, naturally they would have immediately informed the police but there was no such case. The F.I.R. has been registered only after receiving the dead body, post-mortem and cremation of the dead body of the son of the informant. Charge sheet has been submitted in this case and the petitioners are in custody since 19.08.2021 and 02.11.2021, respectively. The petitioners have no criminal history.

Learned APP for the State opposes the prayer for bail of the petitioners submitting that the informant specifically named the petitioners along with one more co-accused. Further, learned APP concedes that cause of death has been shown to be



asphyxia due to drowning as per the post mortem report.

Having regard to the fact and circumstances and submission made on behalf of the parties and further considering drowning as the cause of death in post mortem report and also considering the lack of material against the petitioners on record to connect them with the murder of the son of the informant and further considering the submission of charge sheet along with period of custody of the petitioners and their clean antecedent, 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 Chief Judicial Magistrate, Begusarai in connection with Bakri P.S. Case No. 100 of 2021, 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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