

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8994 of 2022

Arising Out of PS. Case No.-70 Year-2021 Thana- GHOSWARI District- Patna

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Bablu Yadav Son of Dhako Yadav Resident of Village- Alinagar Paijuna, P.S.- Ghoshwari, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 9288 of 2022

Arising Out of PS. Case No.-70 Year-2021 Thana- GHOSWARI District- Patna

- =====
1. Surendra Yadav Son of Lakhan Yadav Resident of Village- Alinagar, Paijuna, P.S.- Ghoswari, District- Patna.
 2. Bhola Yadav Son of Sunder Yadav Resident of Village- Alinagar, Paijuna, P.S.- Ghoswari, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 8994 of 2022)

For the Petitioner/s : Mr. Bhim Sen Prasad, Advocate

For the Opposite Party/s : Mr. Anand Mohan Prasad Mehta, APP

(In CRIMINAL MISCELLANEOUS No. 9288 of 2022)

For the Petitioner/s : Mr. Md. Fazal Rahman, Advocate

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER



3 05-07-2022

Cr. Misc. No. 8994 of 2022

Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

Learned counsel for the petitioner submitted that, inadvertently, the criminal antecedent of the petitioner has been wrongly mentioned as 'clean' in paragraph no.3 of the bail petition, but as informed by the deponent of the bail petition to the learned counsel, petitioner is involved in one more criminal case i.e., Ghoswari P.S. Case No. 20 of 2019.

Learned counsel for the petitioner is directed to correct the paragraph no.3 of the bail petition today itself, during the course of the day.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with Ghoswari P.S. Case No. 70 of 2021 registered for the offence under Sections 147, 148, 149, 302 and 120B of the Indian Penal Code and Section 27 of Arms Act.

The accused/petitioner is named in the F.I.R. and is in custody since 29.06.2021.

The allegation against the petitioner is to commit murder of son of the informant alongwith other co-accused



persons with fire arms, in the background of neighbourhood issues, as set out in F.I.R.

Learned counsel appearing on behalf of the petitioner submitted that from bare perusal of the F.I.R., it appears that specific allegation of fire is against co-accused, namely, Rahul Yadav. It is submitted that the allegation against the petitioner is limited only to be part of the crowd, having general and omnibus allegation. While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State while opposing the prayer of bail fairly conceded that the allegation of fire is specific against the co-accused, namely, Rahul Yadav, as per F.I.R.

Considering the facts and circumstances as mentioned above, as allegation against the petitioner is general and omnibus rather specific allegation is against co-accused, namely, Rahul Yadav coupled with the fact that chargesheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Ghoswari P.S. Case No. 70 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten



Thousand) with two sureties of the like amount each to the satisfaction of learned District and Sessions Judge-V, Barh, subject to the following conditions:

“(i) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner, duly supported by the documents.

(ii) That one of the bailors shall be Nitish Kumar, who is the maternal brother of the petitioner and deponent of the present bail petition.”

Cr. Misc. No. 9288 of 2022

Heard learned counsel appearing on behalf of the petitioners and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioners seek bail in connection with Ghoswari P.S. Case No. 70 of 2021 registered for the offence under



Sections 147, 148, 149, 302 and 120B of the Indian Penal Code and Section 27 of Arms Act.

The accused/petitioners are named in the F.I.R. and petitioner no.1 is in custody since 11.07.2021 and petitioner no.2 is in custody since 13.07.2021.

The allegation against the petitioners is to commit murder of son of the informant alongwith other co-accused persons with fire arms, in the background of neighbourhood issues, as set out in F.I.R.

Learned counsel appearing on behalf of the petitioners submitted that from bare perusal of the F.I.R., it appears that specific allegation of fire is against co-accused, namely, Rahul Yadav. It is submitted that the allegation against the petitioners is limited only to be part of the crowd, having general and omnibus allegation. It is further submitted that after investigation, final form has been submitted against both the petitioners for the reason that nothing incriminating surfaced during the course of investigation against both the petitioners. While concluding the argument, it is submitted that petitioners are persons having clean antecedent and, moreover, chargesheet has been submitted in this case, as such, there is no chance of tampering with the evidence.



Learned APP appearing on behalf of the State while opposing the prayer of bail fairly conceded that the allegation of fire is specific against the co-accused, namely, Rahul Yadav, as per F.I.R.

Considering the facts and circumstances as mentioned above, as allegation against the petitioners is general and omnibus rather specific allegation is against co-accused, namely, Rahul Yadav coupled with the fact that chargesheet has already been submitted, let the petitioners, above named, are directed to be released on bail in connection with Ghoswari P.S. Case No. 70 of 2021 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 District and Sessions Judge-V, Barh, subject to the following conditions:

“(i) Accused/Petitioners shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioners, duly supported by the documents.



(ii) That one of the bailors shall be
Madan Prasad, who is the brother-in-law of
the petitioner no.1 and deponent of the
present bail petition.”

(Chandra Shekhar Jha, J)

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