

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69668 of 2021

Arising Out of PS. Case No.-37 Year-2021 Thana- RAGHOPUR District- Vaishali

Savita Devi, W/o Shyam Babu Pandit, Resident of Village - Bali, P.S.- Gauri Chak, Distt.- Patna, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 8681 of 2022

Arising Out of PS. Case No.-37 Year-2021 Thana- RAGHOPUR District- Vaishali

Shyam Babu Pandit, S/o Late Sarjug Pandit, R/o Village - Bali, P.S. - Gauri Chak, District - Patna, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 69668 of 2021)

For the Petitioner/s : Mr.Satish Kumar Pandey, Advocate

For the Opposite Party/s : Mr.Shailendra Kumar, APP

(In CRIMINAL MISCELLANEOUS No. 8681 of 2022)

For the Petitioner/s : Mr.Prakash Chandra, Advocate

For the Opposite Party/s : Mr.Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 28-09-2022 Since both the applications arise out of Raghopur P.S. Case No. 37 of 2021, 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.

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 Raghapur P.S. Case No. 37 of 2021 registered for the alleged offences under Sections 341, 427, 323, 302, 504, 354 and 34 of the Indian Penal Code and Section 3/4 of Dayan Act.

As per prosecution case, the birth of a dead child took place in the house of the informant to her son and the petitioners along with co-accused who are the maternal grand-parents and maternal uncle of the dead child, respectively came to the house of the informant and started hurling abuses saying that being a witch the informant caused the death of the child. The son of the informant forbade his parents-in-law and during scuffle the husband of the informant tried to save his son and he was attacked by petitioner Shayam Babu Pandit on his head and he subsequently died during his treatment in P.M.C.H.

The learned counsels for the petitioners submit that the petitioners are innocent and have been falsely implicated in this case. The occurrence as alleged has not taken place in the manner as alleged in the FIR. It was the son of the informant who tried to hit the petitioner Shayam Babu Pandit by a bamboo stick and the husband of the informant tried to save his *samdhi*



and he accidentally got hurt in that assault. This fact is clear from the delayed lodging of the FIR. The fardbeyan was recorded after delay of 7 days on 28.01.2021 and the FIR was lodged on 01.03.2021 and the occurrence had taken place on 22.01.2021. The inordinate delay in recording the fardbeyan and lodging of the FIR clearly shows after thought and deliberation and concoction of the prosecution case. It is also not believable that the petitioners and other c-accused would go to the other village and commit such an occurrence. The petitioners were apprehended from their house and if they were guilty, they would have certainly fled away from their house. After reconciliation of the matter the daughter of the petitioner has started living in her matrimonial home, though she was earlier kicked out on 28.01.2021. Charge-sheet has been submitted in this case and the petitioners are in custody since 06.07.2021.

Learned APP opposes the prayer for bail submitting that there is specific allegation against the petitioner Shayam Babu Pandit and the same is supported by the statements of the witnesses recorded in paragraphs 6, 7, 8 and 9 of the case diary.

Perused the records.

Having regard to the facts and circumstances and



submissions made on behalf of the parties and considering the fact that there is likelihood of accidental death during altercation and scuffle between the relatives and further considering the period of custody of the petitioners and submission of charge-sheet, 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 Judicial Magistrate-1st Class, Hajipur, Vaishali in connection with Raghopur P.S. Case No. 37 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 bonds of the petitioners will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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