

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8122 of 2022

Arising Out of PS. Case No.-102 Year-2021 Thana- CHAUSA District- Madhepura

Md. Chhote Khan @ Md. Chhote Kha Son Of Late Salauddin @ Late Salauddin Kho R/O Village- Phulaut East (FULOUT), Ward No.-08, P.S.- Chausa (FULOUT O.P.), District- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 8553 of 2022

Arising Out of PS. Case No.-102 Year-2021 Thana- CHAUSA District- Madhepura

MD. REHAN S/o Late Inush @ Late Md. Inus @ Md. Inusa R/o Village- Phulaut East (Fulout), Ward No.08, P.S.- Chausa (Fulout O.P.), District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 8122 of 2022)

For the Petitioner/s	:	Mr.Pawan Kumar, Advocate
		Mr. Bikramdeo Singh, Advocate
For the State	:	Mr.Ram Priya Sharan Singh, APP
For the Informant	:	Mr. Amar Nath Jha, Advocate

(In CRIMINAL MISCELLANEOUS No. 8553 of 2022)

For the Petitioner/s	:	Mr.Pawan Kumar, Advocate
For the State	:	Mr.Ram Priya Sharan Singh, APP
For the Informant	:	Mr. Amar Nath Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 31-08-2022 Since both the applications arise out of Chausa (Fulout O.P.) P.S. Case No. 102 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 Chausa (Fulout O.P.) P.S. Case No. 102 of 2021 registered for the alleged offences under Sections 364, 302 and 120(B) of the Indian Penal Code.

As per prosecution case, the son of the informant went missing on 11.09.2021. The dead body was recovered on 16.09.2021. The informant named the petitioners along with co-accused and other unknown persons who killed his son and thrown away the dead body in river after pouring acid on the face of the deceased. The occurrence took place in the background love affair of the deceased with niece of petitioner Chhote Khan.

Learned counsel for the petitioners submits that petitioners are innocent and have been falsely implicated in this case. For an occurrence of 11.09.2021, a 'sanha' has been given on 13.09.2021 and the petitioners were not named in 'sanha'. Thereafter, on recovery of dead body on 16.09.2021, the F.I.R. has been registered on 21.09.2021, this shows after thought of



deliberation to implicate the petitioners. No recovery has been made at the instance of the petitioners or from their conscious possession. There is no eye witness to the alleged occurrence and the petitioners have been named in this case merely on suspicion. The petitioner Chhote Khan has been named as the police claims that the last call received by the deceased was from the mobile number of this petitioner but the said mobile phone was used by the niece of the petitioner and the same cannot be made basis for accusing the petitioner with murder. Charge sheet has been submitted in this case and the petitioners are in custody since 23.09.2021. The petitioner Md. Rehan has suffered from heart attack and admitted in hospital for his treatment. The petitioners are having no criminal antecedent.

Learned APP for the State and learned counsel appearing for the informant oppose the prayer for bail of the petitioners submitting that the petitioners are named in the F.I.R. The witnesses examined during investigation supported the prosecution case on the point of affair of the son of the informant and niece of the petitioner Chhote Khan and for this reason, the son of the informant was brutally murdered by them. Though, there is no eye witness but the last call on mobile phone of the deceased was made from the mobile phone of the



petitioner Chhote Khan and thereafter, the son of the informant went missing. However, the learned counsel concedes that apart from the evidence of witnesses on the point of love affair of the deceased and the niece of the petitioner and last call on mobile phone of the deceased, further no material came up to connect the petitioner with the killing of the son of the informant.

Perused the records.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the fact that except for call detail report which in itself does not prove to anything, further no substantive material has come up on record to connect the petitioners with the killing of the son of the informant and further considering their period of custody and submission of charge sheet, 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 S.D.J.M. Udakishunganj, Madhepura in connection with Chausa (Fulout O.P.) P.S. Case No. 102 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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