

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11143 of 2022

Arising Out of PS. Case No.-250 Year-2020 Thana- BHAGWANPUR District- Begusarai

AMARJEET KUMAR @ AMARJEET SINGH @ AMARJEET KUMAR
SINGH SON OF RAM GULAM SINGH R/O VILLAGE- GARA, P.S.-
BHAGWANPUR, DISTRICT- BEGUSARAI

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 12094 of 2022

Arising Out of PS. Case No.-250 Year-2020 Thana- BHAGWANPUR District- Begusarai

DILIP KUMAR SINGH S/o Veer Kunwar Singh @ Biro Singh R/o village-
Gara, P.S.- Bhagwanpur, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 11143 of 2022)

For the Petitioner/s : Mr.Sandip Kumar Gautam, Adv.

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

(In CRIMINAL MISCELLANEOUS No. 12094 of 2022)

For the Petitioner/s : Mr.Sandip Kumar Gautam, Adv.

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

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

- 3 09-05-2022 The applicants are accused in Crime No. 250 of 2020 registered with Bhagwanpur Police Station for the offences punishable under Section 302 read with 34 of the Indian Penal Code and by this application they are seeking their release on bail during pendency of the trial after filing of the charge sheet. Their earlier application was disposed of by this Court as during



pendency of the said application, the charge sheet was filed against them. The applicants were permitted to approach the Sessions Court first due to filing of the charge sheet. Now after rejection of their bail application by the learned Sessions Judge they have approached this Court for seeking bail.

The learned counsel for the applicants argued that the FIR is lodged on 20.10.2020 by Mamta Devi with an averment that she received information on 19.10.2020 at 8:30 P.M. to the effect that her father Kamleshwari Singh and brother Om Prakash Singh are murdered in the vicinity of her parental house. It is argued that the FIR itself shows that Mamta Devi and her husband Ram Gyan Mahto rushed to the parental house in village Gara and noticed dead bodies of Kamleshwari Singh and Om Prakash Singh with several injuries. It is further argued that investigating officer has recorded statement of Anju Kumari resident of Banoli (paragraph 8) and Sanju Kumari resident of Daulatpur (paragraph 9) so also that of Ram Gyan Mahto (paragraph 10). Their statements show that they are not eye witnesses to the subject crime. It is argued that there is no evidence to connect the applicants to the crime in question.

The learned Additional Public Prosecutor has not pointed out any incriminating evidence against the applicants.



I have heard the learned counsel for the first informant. He argued that widow of the deceased so also the mother of the deceased are not examined by the investigating officer. They had made an application to the Magistrate. It is further argued that bail applications of co-accused Ram Gulam Singh and Veer Kunwar Singh are rejected by the co-ordinate Bench of this Court vide order dated 22.11.2021 and 22.09.2021 respectively.

I have considered the submissions so advanced and also perused the material placed before me. As noted in the foregoing para, the learned Additional Public Prosecutor is unable to point out any incriminating evidence against the applicants. Perusal of the FIR lodged by Mamta Devi makes it clear that neither she nor her husband Ram Gyan Mahto are eye witnesses to the subject crime in which Kamleshwari Singh and Om Prakash Singh are done to death. FIR of Mamta Devi is to the effect that she came to know on 19.10.2020 that her father Kamleshwari Singh and brother Om Prakash Singh have been murdered. She seems to be resident of village Ishapur. She claimed that in the night at about 9:15 P.M. she and her husband reached village Gara and saw dead bodies of her father and brother. She reported in her FIR that from the enquiry in the



village she came to know that her father and brother are killed by accused persons including Amarjeet Singh and Dilip Kumar Singh who are applicants before this Court. It is alleged by her that the offence took place because of dispute over the landed property. Statement of Anju Kumari resident of Banoli (paragraph 8) and that of Sanju Kumari resident of Daulatpur (paragraph 9) makes it clear that they are not eye witnesses to the incident. Ram Gyan Mahto had accompanied his wife Mamta Devi to village Gara and as such he is also not an eye witness to the incident in question. Though it is argued by the learned counsel for the first informant that by dragging them out of their houses Kamleshwari Singh and Om Prakash Singh are killed by the accused persons, the learned counsel for the first informant is also not in a position to point out any incriminating evidence against the applicants. He has only placed reliance on orders passed by the Co-ordinate Bench of this Court in bail applications of Ram Gulam Singh and Veer Kunwar Singh. I have perused those orders carefully. The reasoning part of those orders is to the effect that “Considering the facts and circumstances of the case”. It is observed in the order of Veer Kunwar Singh that there is property dispute between the deceased and the applicant because of which earlier cases were



registered. However, motive by itself cannot constitute prima facie evidence against the applicants.

As no incriminating evidence has been pointed out to this Court which may prima facie show complicity of both the applicants in the subject crime of brutal murder of two persons, their further pre-trial detention after filing of the charge sheet is not warranted and hence the order.

i. The applications are allowed.

ii. The applicants/accused in Crime No. 250 of 2020 registered with Bhagwanpur Police Station for the offences punishable under Section 302 read with 34 of the Indian Penal Code, be released on bail on executing P.R. bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicants/accused should not contact the prosecution witnesses or any person acquainted with the facts of accusation against them so as to dissuade them from disclosing the same to the Court or to the police.

(II) The applicants/accused should cooperate the trial court in expeditious disposal of the trial against them.

(III) The applicants/accused should not contact



the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicants should not repeat commission of similar offence in future and if they are found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicants in the instant case.

The applicants to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the applicant/accused.

Needless to mention that all observations in this order are prima facie in nature and shall have no bearing on the trial.

(A. M. Badar, J)

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