

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12737 of 2022

Arising Out of PS. Case No.-76 Year-2012 Thana- AMARPUR District- Banka

Manoj Yadav, S/o Tunni Yadav, R/o village- Bari Jankipur, P.S.- Amarpur,
District- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 15482 of 2022

Arising Out of PS. Case No.-76 Year-2012 Thana- AMARPUR District- Banka

Pawan Yadav, Son of Banti Yadav, Resident of Village - Bari Jankipur, P.S. -
Amarpur, District - Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 12737 of 2022)

For the Petitioner/s : Mr.Ajay Mukherjee, Advocate.

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

(In CRIMINAL MISCELLANEOUS No. 15482 of 2022)

For the Petitioner/s : Mr.Brij Nandad Prasad, Advocate.

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

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 05-09-2022 Heard Mr. Ajay Mukherjee, learned counsel

appearing on behalf of the petitioner and Mr. Nirmal Kumar

Sinha, learned A.P.P. for the State in Cr. Misc. No. 12737 of

2022 and Mr. Brij Nandad Prasad, learned counsel appearing on

behalf of the petitioner and Mr. Md. Aslam Ansari, learned APP

for the State in Cr. Misc. No. 15482 of 2022.



Let the defect(s), if any, be removed within two weeks of the complete start of the physical Court in normal course.

The petitioners in above bail applications filed on their behalf seek regular bail in connection with Amarpur P.S. Case No. 76 of 2012 for the offence punishable under Sections 147, 148, 149, 341 and 302 of the Indian Penal Code.

Let the supplementary affidavit filed in Cr. Misc. No. 15482 of 2022 on behalf of the petitioner Pawan Yadav in physical form in the Court be kept on the record.

Both the bail applications have been filed on behalf of the petitioners subsequent to the issue of summon under Section 319 of the Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") to the petitioners by the Court of learned Additional Sessions Judge-III, Banka after proper appreciation of materials brought on record and after recording the statement of the informant. Thereafter, the petitioners were apprehended.

Brief facts culled out from the records are that an F.I.R. was lodged by the informant whose husband namely Subodh Yadav was brutally assaulted by the accused persons named in the F.I.R. including the present petitioners. The cause of alleged assault is that the deceased had taken up the matter



relating to molestation of his younger daughter before the Panchayat. Thereafter, the accused persons named in the F.I.R. assaulted the husband of the informant, who succumbed to the injuries. Post mortem also supports the multiple injuries caused on the body of the deceased.

Learned counsel appearing on behalf of the petitioners submits that the petitioners had no knowledge about the order dated 05.11.2019 passed under Section 319 Cr.P.C that they have been summoned by the court below as the summon was not carried out in a proper manner. He further submitted that though the petitioners are named in the F.I.R., but they had no apprehension that they have been made accused in the above mentioned police case. Petitioners are labourer and they used to go to other States to earn their livelihood. Though the informant in his deposition before the trial court had not specifically named the petitioner, however PW-3 and PW-5 had disclosed the name of the petitioners, but in their deposition before the trial court, they have not made specific allegation of assault against the petitioners, though they were present at the time of incidence. He further submits that general and omnibus allegation has been made against all the accused persons named in the F.I.R. The persons against whom police has submitted



charge sheet namely Banti Yadav, Sudarsan Yadav and Pandu Yadav have already been released on bail by a co-ordinate Bench of this Court vide order dated 11.12.2012 passed in Cr. Misc. No. 43498 of 2012. Learned counsel further submitted that the petitioners had not immediately availed the remedy either the privilege of anticipatory bail or regular bail. The summon under Section 319 Cr.P.C. was issued vide order dated 05.11.2019, but due to lock down some time elapsed which caused delay in availing the remedy for grant of bail.

Learned APPs for the State have vehemently opposed the prayer for grant of bail to the petitioners.

Having perused the materials on record, supplementary affidavit and evidence of the witnesses recorded before the trial Court, the investigation reveals that the petitioners were not chargesheeted, the Court on the basis of application filed on behalf of the State and after recording the statement of the informant, PW-3 and PW-5, issued summon under Section 319 Cr.P.C. From the depositions of all witnesses, it appears that the informant has not named the present petitioners that he had assaulted the deceased which is supported by two witnesses PW-3 and PW-5 who were the eye witnesses present at the place of occurrence have also not made



any specific overt act committed by the petitioners. Prima facie, the Court finds that the petitioners have made out a case to be released on bail. Petitioners have explained satisfactorily that they had no knowledge that F.I.R. has been lodged against them, as such, there cannot be apprehension of being arrested. Soon after summon was issued under Section 319 Cr.P.C., they were apprehended and they had filed application for grant of bail before the court below.

The petitioners Manoj Yadav and Pawan Yadav who have separately preferred Cr. Misc. Nos. 12737 of 2022 and 15482 of 2022 respectively, are directed to be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Banka in connection with Amarpur P.S. Case No. 76 of 2012, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioners tamper with the evidence or the



witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioners.

(4) If the petitioners are found involved in similar nature of offence, after their release on bail, the trial Court shall take steps to cancel their bail bonds.

(Purnendu Singh, J)

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