

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69595 of 2021

Arising Out of PS. Case No.-88 Year-2021 Thana- BEERPUR District- Begusarai

Hariom Sharma @ Bogo Son of Late Ramjatan Sharma Resident of Village-
Muzaffara, Ward No. 08, P.S.- Birpur, District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 19174 of 2022

Arising Out of PS. Case No.-88 Year-2021 Thana- BEERPUR District- Begusarai

Nitish Kumar Sharma Son of Jagdish Sharma Resident of Village -
Muzaffarpa, P.s.- Birpur, Distt.- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 31537 of 2022

Arising Out of PS. Case No.-88 Year-2021 Thana- BEERPUR District- Begusarai

Bittu Kumar Sharma S/o Surendra Sharma Resident of Village-Muzaffara
Ward No.-8, P.S.-Birpur, District-Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 69595 of 2021)

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

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

(In CRIMINAL MISCELLANEOUS No. 19174 of 2022)

For the Petitioner/s : Mr. Braj Bhushan Poddar, Adv.

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

(In CRIMINAL MISCELLANEOUS No. 31537 of 2022)

For the Petitioner/s : Mr. Binod Kumar, Adv.

For the Opposite Party/s : Mr. Dr.Mrityunjaya Kr.Gautam, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 09-11-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners seek regular bail in connection with Birpur P.S. Case No. 88 of 2021, lodged under Sections 302, 201, 34 of the Indian Penal Code read with Section 27 of the Arms Act.

As per prosecution case, the informant has disclosed that all the petitioners of 3 cases came to her house and forcibly took the informant's husband by using *Gamchha* on his neck. After some time the informant received information that dead body of her husband was lying in maize field. The informant immediately reached there and found her husband lying dead. As per her version there was fire arm injury on the head of her husband, informant claimed that the said killing was made due to the land dispute between the parties.

Learned counsel for the petitioner of Cr. Misc. No. 69595 of 2021 submits that petitioner is innocent and has committed no offence. He further submits that petitioner was falsely implicated in this case due to land dispute. He further submits that petitioner is in custody since 29.07.2021 and he has

having 2 criminal cases pending against him. He further submits that role of petitioner in the crime has been disclosed by the co-accused Nitish Kumar Sharma only, save and except there is only suspicion against him. He further submits that the treatment of co-accused Nitish Kumar Sharma is not good with the daughter of informant, and it is due to this reason, there may be existence of a motive with co-accused Nitish Kumar Sharma, but there is absolutely nothing with the present petitioner.

Learned counsel for the petitioner of Cr. Misc. No. 19174 of 2022 submits that petitioner is innocent and has committed no offence. He further submits that there is no land dispute with the deceased and petitioner and under coercion of Police his statement was recorded which may not be relied upon. He further submits that petitioner is in custody since 29.07.2021 and petitioner has one criminal antecedent, in which he is on bail.

Learned counsel for the petitioner of Cr. Misc. No. 31537 of 2022 submits that petitioner is completely innocent and has committed no offence. He further submits that due to enmity, name of present petitioner has come in this case. He also submits that there was existence of land dispute between petitioner and informant and due to this reason, informant has

dragged the name of present petitioner in this case. He further submits that the present petitioner is said to be the agnate of informant and he is also in custody since 29.07.2021 having no criminal antecedent, save and except that recovery of arms has taken place from the possession of petitioner and for this, a case under Arms Act is pending against him, prior to that his antecedent was clean. He further submits that even if the confessional statement of the co-accused Nitish Kumar Sharma is said to be true, then also there is no act or overt act against the present petitioner.

Learned counsel for the State opposes the prayer for bail and submits that there is confessional statement of co-accused and specific allegation made by the co-accused is upon petitioner namely Hariom Sharma @ Bogo of firing on the deceased. He further submits that petitioner of Cr. Misc. No. 19174 of 2022 namely Nitish Kumar Sharma has made confessional statement and disclosed that the weapon used in the crime has kept at the house of petitioner of Cr. Misc. No.31537 of 2022 namely Bittu Kumar Sharma and Police has recovered the said arm from the house of Bittu Kumar Sharma, as such, the said confessional statement is fully reliable.

In the present facts and circumstances of this case and

the submissions made above, I am not inclined to grant bail to any of the petitioner, therefore, bail of all the petitioners are hereby rejected.

Learned Trial Court is directed to expedite the trial as early as possible.

(Dr. Anshuman, J.)

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