

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66891 of 2021

Arising Out of PS. Case No.-217 Year-2021 Thana- HARNAUT District- Nalanda

VIJAY YADAV, Son of Late Bindeshwar Yadav, Resident of Village -
Pakaribigha, P.S. - Harnaut (Gokhulpur O.P.), District - Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 19910 of 2022

Arising Out of PS. Case No.-217 Year-2021 Thana- HARNAUT District- Nalanda

SANTOSH YADAV, Son of Vijay Yadav, Resident of Village - Pakadia
Bigaha, P.S.- Harnaut (Gokhulpur), District - Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 66891 of 2021)

For the Petitioner/s : Mr.Rudal Singh, Advocate

For the State : Mr.Damodar Prasad Tiwary, APP

For the Informant : Mr. Saket Gupta, Advocate

(In CRIMINAL MISCELLANEOUS No. 19910 of 2022)

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate

Mrs.Priyanka Singh, Advocate

Mrs. Kumari Anupam, Advocate

Mr. Madhav Raj, Advocate

For the State : Mr.Mohammed Arif, APP

For the Informant : Mr. Saket Gupta, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

9 06-12-2022 Since both the applications arise out of Harnaut
(Gokhulpur) P.S. Case No. 217 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
counsel for the informant as well as learned A.P.P. for the State.

Let the defect (s), if any, as pointed out by the office, be removed within a period of four weeks.

In the present case, the petitioners seek bail in connection with Harnaut (Gokhulpur) P.S. Case No. 217 of 2021 registered for the alleged offences under Sections 302 and 34 of the Indian Penal Code.

As per prosecution case, the father of the informant went with the petitioner Santosh Yadav on his motorcycle after attending a *barat* and thereafter his dead body was found. The informant showed his suspicion that petitioners along with two other co-accused persons strangled the father of the informant and drowned him.

Learned counsel for the petitioner Vijay Yadav submits that the petitioner has been named in this case merely on suspicion. It is clear from the F.I.R. that informant is not an eye witness and the father of the informant did not accompany this petitioner. The evidence of witnesses have been recorded in this case which have been brought on record by filling a supplementary affidavit and even in the deposition of the informant and other witnesses except for showing suspicion and stating that they believed the petitioner was involved, nothing substantive came up against this petitioner. The petitioner is in custody since 10.07.2021.

Learned senior counsel appearing on behalf of the petitioner Santosh Yadav submits that from the F.I.R. it is apparent that the father of the informant joined the petitioner on his own. It

shows there was no enmity between the petitioner and the deceased. Learned senior counsel further submits that if there were any apprehension, when the informant was himself accompanying the deceased as well as this petitioner, naturally the father of the informant would have gone with the informant and not with this petitioner. He further submits that though a case of last seen has been made against the petitioner but there is no material to show that the petitioner was involved in any manner in causing the death of the father of the informant. Learned senior counsel further submits that it also appears that informant might not be an eye witness. The petitioner is in custody since 01.10.2021.

Learned A.P.P. for the State and learned counsel for the informant vehemently oppose the submission made on behalf of the petitioners. Learned counsel for the informant submits that the petitioner Santosh Yadav was last seen with the father of the informant and Call Details Report and tower location of the mobile phone of the petitioners were seen near the place of occurrence.

Perused the records.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the nature of allegation and lack of substantive material to connect the petitioners with the offence as alleged and also considering the period of custody of the petitioners, 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 Chief Judicial Magistrate, Nalanda at Biharsharif in connection with Harnaut (Gokhulpur) P.S. Case No. 217 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.

However, anything said here would not be construed as comment on merit of the case and the learned trial court would proceed in the matter without getting prejudiced by this order.

(Arun Kumar Jha, J)

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