

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67484 of 2021

Arising Out of PS. Case No.-270 Year-2021 Thana- NAWANAGAR District- Buxar

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1. MURLI SHARMA, Son of Ramadhar Sharma @ Ramadhar Sharma Resident of Village - Karsar, P.s.- Nawa Nagar, Distt.- Buxar.
 2. Murari Sah, Son of Late Ratan Sah Resident of Village - Karsar, P.s.- Nawa Nagar, Distt.- Buxar.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Murari Sah Late Ratan Sah Karsar, Nawa Nagar, Buxar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 67538 of 2021

Arising Out of PS. Case No.-270 Year-2021 Thana- NAWANAGAR District- Buxar

AWADH BIHARI DUBEY Son of Late Chhabila Dubey Resident of Village Kadsar, P.S. Nawa Nagar, District - Buxar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 70443 of 2021

Arising Out of PS. Case No.-270 Year-2021 Thana- NAWANAGAR District- Buxar

DHANANJAY PANDEY @ DHANANJAY KUMAR PANDEY Son of Ashok Pandey Resident of village - Patelawa, P.S.- Buxar (Industrial), District - Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 21849 of 2022

Arising Out of PS. Case No.-270 Year-2021 Thana- NAWANAGAR District- Buxar



DINESH RAWANI Son of Shiv Prasan Rawani R/O Vill.- Karasar, P.S.-
Nawanagar, Dist.- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 67484 of 2021)

For the Petitioner/s : Mr.Ashok Kumar Mishra, Advocate

For the Opposite Party/s : Ms. Rina Sinha, APP
Mr. Manish Prakash, APP

(In CRIMINAL MISCELLANEOUS No. 67538 of 2021)

For the Petitioner/s : Mr.Ashok Kumar Mishra, Advocate

For the Opposite Party/s : Mr.Dilip Kumar No. 1, APP

(In CRIMINAL MISCELLANEOUS No. 70443 of 2021)

For the Petitioner/s : Mr.Sanjay Kumar, Advocate

For the Opposite Party/s : Mr.Syed Mojibur Rahman, APP

(In CRIMINAL MISCELLANEOUS No. 21849 of 2022)

For the Petitioner/s : Mr.Dr. Kamal Deo Sharma, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 14-09-2022 Since four cases arise out of Nawanagar (Sonbarsa)

P.S. Case No. 270 of 2021 as such, they have been heard 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 Nawanagar (Sonbarsa) P.S. Case No. 270 of 2021
registered for the alleged offences under Sections 302 and 120B of
the Indian Penal Code.



As per prosecution case, the husband of the informant was called out by the petitioner Dinesh Rawani from his house and was taken to market where he was shot dead. The informant named the petitioners along with other co-accused persons who were seen fleeing away from the spot. The petitioner Dhananjay Pandey was also stated to be present during the occurrence. The occurrence took place in the background of earlier dispute between the parties in which one Ashok Singh was murdered and the petitioners' side was accused.

Learned counsels for the petitioners submit that petitioners are innocent and have been falsely implicated in this case. They have no involvement in the alleged occurrence and this fact becomes clear from the perusal of the F.I.R. and other documents. It has been submitted on behalf of the petitioners that the occurrence took place at 7:00 P.M. on 21.07.2021 but the F.I.R. has been registered at 10:15 A.M. on 22.07.2021. Meanwhile, the seizure list has been prepared at 20:05 P.M. on 21.07.2021 and it was witnessed by the two persons named by the informant in her statement in F.I.R. The time of the Inquest in report is at 5:50 P.M. on 22.07.2021 but the receiving of dead body for post mortem shows it has been received at 5:10 A.M. on 22.07.2021. These facts only go on to show that the prosecution story is completely fabricated and concocted. There is no explanation for delay in



lodging the F.I.R. Moreover, when the family members of the deceased were present to witness the seizure list, it is surprising that they neither lodged the F.I.R. nor recorded the statement of fact about the death of the deceased. Then receiving of dead body for post mortem prior to inquest is also beyond comprehension. It is further submitted on behalf of the petitioners that this goes on to show that neither the informant nor the persons who witnessed the seizure list were present at the place of occurrence and they are not the eye witnesses. Someone killed the husband of the informant and all the petitioners along with co-accused persons have been named after due deliberation and after thought by the informant. It is also evident from the F.I.R. that there is enmity between the parties and in fact all the cases registered against petitioner Awadh Bihari Dubey have been filed by the side of the informant. It has further been submitted on behalf of the petitioners that no specific allegation has been leveled against the petitioners and allegations are completely general and vague. It has also not come on record that there is any eye witnesses to the occurrence and the witnesses, who claim themselves to be eye witnesses, are all family members of the informant. It has further been submitted on behalf of the petitioners that till date only two witnesses have been examined out of the total 16 charge sheet named witnesses and the trial is not likely to conclude in the near future. The petitioners are in custody



since 24.07.2021, 12.08.2021, 03.08.2021 and 23.07.2021, respectively.

Learned APP for the State and learned counsel appearing on behalf of the informant oppose the prayer for bail of the petitioners submitting that the informant and other witnesses have named the petitioners Awadh Bihari Dubey and Murli Sharma brandishing fire arms along with other co-accused persons and fleeing away from the place of occurrence and the statements of the witnesses have been recorded in paragraph nos 7, 8, 21, 109 and 110 of the case diary. Learned counsel further submits that total 11 bullet injuries were found on the body of the deceased and the act has been committed by the petitioners and other co-accused persons in order to deter the informant side from adducing evidence in earlier case of murder of one Ashok Singh. However, the learned APP concedes that independent witnesses in paragraph 231, 235, 236, 237, 240, 241, 254, 255 and 259 have also stated about false implication of some of the accused persons named by the informant and other witnesses.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the fact that there is no eye witnesses who might have seen the petitioners opening fire upon the deceased with the general allegation against the petitioners and possibility of false implication, which cannot



be ruled out under the facts and circumstances discussed hereinabove, and also the fact about likely delay in conclusion of trial, 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, Buxar in connection with Nawanagar (Sonbarsa) P.S. Case No. 270 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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