

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26697 of 2022

Arising Out of PS. Case No.-247 Year-2021 Thana- JOGAPATTI District- West Champaran

Ramashankar Chaudhary, S/O Late Laxman Chaudhary, R/o village-
Nawalpur, P.S.- Jogapatti (Nawalpur), District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 27251 of 2022

Arising Out of PS. Case No.-247 Year-2021 Thana- JOGAPATTI District- West Champaran

Surendra Chaudhary, Son of Late Nathuni Chaudhary, Resident of Village -
Nawalpur, P.S.- Jogapatti (Nawalpur), Distt.- west Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 26697 of 2022)

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Advocate
		Mr. Umesh Chandra Verma, Advocate
For the State	:	Mr. Ram Priya Sharan Singh, APP
For the Informant	:	Mr. Bimlesh Kumar Pandey, Advocate

(In CRIMINAL MISCELLANEOUS No. 27251 of 2022)

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Advocate
		Mr. Umesh Chandra Verma, Advocate
For the State	:	Mr. Ram Priya Sharan Singh, APP
		Mr. Mukesh Kumar Singh, Advocate
For the Informant	:	Mr. Bimlesh Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

5 09-11-2022 Heard learned counsel for the petitioners and learned
APP for the State as well as learned counsel for the informant.

Let the defect (s), 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 Jogapatti (Nawalpur) P.S. Case No. 247 of 2021 registered for the alleged offences under Sections 147, 148, 149, 341, 323, 324, 325, 354-B, 379, 307, 504, 506 and 302 of the Indian Penal Code.

As per prosecution case, in the background of earlier land dispute, the petitioners along with other co-accused persons came to the house of the informant and assaulted the informant with lathi. They further assaulted the husband of the informant who later on succumbed to his injuries.

The learned senior counsel appearing on behalf of the petitioner Ramashankar Chaudhary submits that the petitioner is a victim of false implication and wife of the petitioner has lodged Jogapatti (Nawalpur) P.S. Case No. 276 of 2021 against the informant and others for the occurrence of the same day. Learned senior counsel further submits that there is no specific allegation against this petitioner except that he was the order giver and the allegation against the petitioner is general and omnibus along with other co-accused persons. There is specific allegation against the petitioner Surendra Chaudhary and co-accused Virendra Chaudhary that they hit the husband of the informant on his nose and neck, respectively with iron rod and



lathi. The co-accused persons Virendra Chaudhary and Sanjeev Chaudhary have been granted bail by a Coordinate Bench of this Court vide order dated 17.05.2022 passed in Cr. Misc. No. 63223 of 2021. Learned senior counsel further submits that the death is said to have occurred due to head injury and there is no specific allegation of causing the head injury against this petitioner though, after postmortem came, as an after thought some of the witnesses named this petitioner that he struck the husband of the informant with *lathi* on his head. The petitioner is in custody since 07.01.2022 and charge-sheet has been submitted.

It has been submitted on behalf of the petitioner Surendra Chaudhary that except for the allegation that he hit on the nose of the husband of the informant there is no other specific allegation against this petitioner. Moreover, this injury is not stated to have caused the death of the husband of the informant. This petitioner is also in custody since 07.01.2022 and charge sheet has been submitted.

Learned APP as well as learned counsel appearing on behalf of the informant oppose the submission made on behalf of the petitioners. Learned counsel for the informant submits that the witnesses in paragraph 43 to 47 have stated that



petitioner Ramashankar Chaudhary gave a blow of lathi on the head of the of the husband of the informant and the postmortem report also shows that the husband of the informant died due to head injury. Learned counsel further submits that it is not unnatural that the statement of these witnesses have been recorded after the postmortem had been conducted. Learned counsel further submits that the allegation against the petitioner Surendra Chaudhary is that of giving blow of iron rod on the nose of the husband of the informant and the said injury was also observed in the postmortem report. The learned counsel further submits that a video recording of the occurrence also shows the petitioner Ramashankar Chaudhary and petitioner Surendra Chaudhary were present at the time of occurrence. Learned counsel further submits that the cases of the petitioners are not on the same footing with the co-accused persons who have been granted bail by a Coordinate Bench since the injuries attributed to co-accused Virendra Chaudhary were not found on the person of the deceased whereas allegation against other co-accused persons are general and omnibus and not specific.

Perused the records.

Having regard to the submissions made on behalf of the parties and considering the statement of witnesses recorded



during investigation regarding assault on the head of the deceased by lathi by the petitioner Ramashankar Chaudhary on the head of the deceased and cause of death attributed to the head injury, I am not inclined to enlarge the petitioner no.1 **Ramashankar Chaudhary** on bail.

Hence, the prayer for bail of petitioner no.1 **Ramashankar Chaudhary** is rejected.

Having regard to the submissions made on behalf of the parties and considering the fact that there appears no serious allegation against petitioner no.2 **Surendra Chaudhary** leading to the death of the husband of the informant, the petitioner no. 2 **Surendra Chaudhary** is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, West Champaran at Bettiah in connection with Jogapatti (Nawalpur) P.S. Case No. 247 of 2021, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioner no.2.
- (ii) The petitioner no.2 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 petitioner no.2 will be liable to be cancelled by the court concerned.

However, the learned trial court is directed to expedite the trial and conclude the same preferably within a period of nine months.

Himanshu/-

(Arun Kumar Jha, J)

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