

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3887 of 2022

Arising Out of PS. Case No.-254 Year-2021 Thana- WARISNAGAR District- Samastipur

Lalu Kumar Son of Shambhu Ray Resident of Village- Basantpur, Police
Station- Warisnagar, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 28066 of 2022

Arising Out of PS. Case No.-254 Year-2021 Thana- WARISNAGAR District- Samastipur

Brijasar Kumar @ Brijesh Roy Son of Rajendra Roy @ Rajendra Yadav
Resident of village - Darsoor, P.S.- Warisnagar, District - Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 3887 of 2022)

For the Petitioner/s : Mr.Bijay Bhushan Prasad, Advocate

For the Opposite Party/s : Mr.Madhuri Lata,APP

(In CRIMINAL MISCELLANEOUS No. 28066 of 2022)

For the Petitioner/s : Mr.Pramod Kumar Singh,Advocate

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 02-11-2022 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.

In the present case, the petitioners seek bail in
connection with Warisnagar P.S. Case No. 254 of 2021

registered for the alleged offences under Sections 363, 302, 201, 34 and 364 of the Indian Penal Code.

As per prosecution case, the son of the informant went out with the petitioner Lalu Kumar and co-accused Dilkhush Kumar and thereafter he went missing. Later on, his dead body was recovered and name of the petitioner Brijasar Kumar also came up as an accused in this case along with other co-accused persons.

It has been submitted on behalf of the petitioners that the petitioners are innocent and have been falsely implicated in this case as no occurrence as alleged has ever taken place. Learned counsel for the petitioner Lalu Kumar submits that this petitioner was seen with the son of the informant two days prior to the lodging of the F.I.R but during investigation none has supported the contention of the informant. Further, during investigation co-accused Dilkhush Kumar was arrested by the police who disclosed that the deceased was having illicit relationship with daughter of his neighbor, Shagun Ray and on the fateful day deceased had gone to meet the girl at her house and he was caught hold by the family members who assaulted and killed him. In order to make the dead body disappear, it was thrown into the Kareh river. Based on the disclosure, the dead

body was recovered from the Kareh river. But this petitioner, Lalu Kumar, was not named by co-accused Dilkhush Kumar for any act or participation in the alleged crime. Rather he named another Lalu Kumar, son of Shagun Ray, and brother of the girl who was having affair with the deceased. So, it is a case of honor killing. The petitioner Lalu Kumar is in custody since 20.09.2021 and charge sheet has been submitted. He has got clean antecedent.

Learned counsel for the petitioner Brijesh [Roy @ Brijasar](#) Kumar submits that the petitioner is brother-in-law of co-accused Lalu Kumar and for this reason he has been named in this case. The petitioner has not been living at the place of occurrence. Learned counsel further submits that though the case of the police is that co-accused Dilkush Kumar informed one Govind Kumar on mobile phone about deceased coming into the house of the co-accused Lalu Kumar but call details report does not show any call being made by the Dilkhush Kumar to Govind Kumar. There is no material on whole of the record to show that petitioner was seen at any point of time near the place of occurrence or in the company of the deceased. There is no eye witness to support the prosecution version. Nothing incriminating has been recovered from the possession

of this petitioner or at his instance. Charge sheet has been submitted in this case and the petitioner are in custody since 11.03.2022. The petitioner has got clean antecedent.

Learned APP for the State and learned counsel for the informant oppose the submission made on behalf of the petitioner. Learned counsel for the informant submits that the informant has named the petitioner Brijaras Kumar for his involvement in paragraph 2 of the case diary and other witnesses in paragraph 7 and 8 of the case diary have also supported the prosecution case.

Perused the records.

Having regard to the submission made on behalf of the parties and further considering the lack of cogent material on record against the petitioners and submission of charge sheet against them and also considering their clean antecedent, 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, Samastipur in connection with Warisnagar P.S. Case No. 254 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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