

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38582 of 2021

Arising Out of PS. Case No.-26 Year-2021 Thana- MAKER District- Saran

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1. BABAN RAY @ BIRENDRA KUMAR RAY S/o Late Keshwar Ray
Resident of Village- Pirmakor Chandila, P.S.- Maker, District- Saran.
 2. Chandeshwar Thakur @ Chandrashekhar Thakur Son of Sachidanand
Thakur Resident of Village- Pirmakor Chandila, P.S.- Maker, District- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mrs. Soni Srivastava, Advocate Mr.Ravi Bhardwaj, Advocate
For the informant	:	Mr. Sunil Kumar Singh, Advocate
For the Opposite Party/s	:	Mrs. Asha Devi, A.P.P

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 21-02-2022 Heard Mrs. Soni Srivastava, learned counsel

appearing on behalf of the petitioner, Sri Sunil Kumar Singh,

learned counsel appearing on behalf of informant and learned

A.P.P. for the State.

Let the defect(s) be removed within two weeks of

the complete start of the physical Court in normal course.

The petitioner, who is in custody since 16.03.2021,

seeks regular bail in connection with Maker P.S. Case No. 26 of

2021, for the offence punishable under Sections 302 and

120B/34 of the Indian Penal Code.

The prosecution case, in brief, is that wife of the

informant had applied for the engagement as Sewika and her



name was at first place in the merit list. The accused persons named in the F.I.R., including the petitioners, put pressure to withdraw the application of his wife, but he refused to do so. Thereafter, in connivance with the supervisor of C.D.P. Anita Sharma and C.D.P.O Manju Rani and other officials, the family member of the accused persons Priyanka Kumari was selected, whose name was at Sl. No. 2 of the merit list regarding which wife of informant, namely, Kumari Anupama had filed objection petition before D.P.O. On 16.02.2021 at about 7.00 P.M. the accused persons came at semi constructed house of the informant and threatened not to go to the D.P.O, Chapra to place the matter otherwise they would kill the entire family members. On 17.02.2021, at about 2.00 A.M. Baban Rai @ Birendra Kumar (petitioner No.1) gave knife blow, Santosh Rai gave sword blow, Sanjay Kumar Rai gave Garasa blow, Suman Rai gave Bhala blow, Manoj Rai pressed neck, Heeralal Rai assaulted with rod, Devendra Kumar Rai dragged by holding leg, Chandeshwar Thakur (Petitioner No.2) pressed mount and Ajay Kumar assaulted with rod from behind. In the sleeping condition the accused persons attacked on the house of the informant and killed his father Kanhaiya Prasad.

Learned counsel appearing on behalf of the



petitioners submits that petitioner No.1 is the father-in-law of selected candidate Priyanka Kumari and the case of the informant is falsify on the ground that in the F.I.R. the informant alleges that he has seen the petitioner No.1 along with two other accused, namely, Sanjay Kumar Rai, Santosh Rai and Ajay Kumar, who had assaulted the deceased by means of Garansa, Sword and Iron rod. However, in course of investigation, it has been found that all the aforesaid three persons were not found in the village. She further submits that cause of death is due to some other reason and from Postmortem report, it also appears that none of the injury found on the body of the victim caused by sharp edge weapon, whereas the allegation against the petitioner No.1 is that he had assaulted the deceased with help of knife. She further submits that petitioner No.2 is the ward member and in this regard, specific statement has been made in paragraph No.11 of the bail application and no allegation of assault has been made against him that he has used any weapon and caused death of deceased, while the cause of death as per the opinion of the Doctor is due to hard and blunt substance. She further submits that petitioner No.2 has been roped in the present case due to the fact that the daughter in law of the informant has not been selected for the engagement on the post



of Anganbari Sewika, no case is made out against him.

Sri Sunil Kumar Singh, learned counsel appearing on behalf of informant, vehemently, opposed the prayer for grant of bail to the petitioners. He further submits that so far as petitioner No.1 is concerned there is direct allegation against him, which cannot be denied as he is the father-in-law of the selected candidate and it is who had threatened the informant not to go in the office of D.P.O, Chapra on 17.02.2021, which led to the present case and due to said fact, the accused persons with common intention committed murder of the deceased.

Learned A.P.P. for the State submits that three sons of the petitioner No.1 were not found in the village on the date of alleged occurrence, which has come in the supervision note of D.S.P in paragraph no. 36 of the case diary, which has been supported by C.D.R. report, which confirms the fact that two sons of the petitioner lives at different places. However, the complicity of the petitioner No.1 cannot be denied. So far as petitioner No.2 is concerned, he submits that he was ward member and as such it is who has played fraud in the process of selection and as such petitioners do not deserve to be released on bail.

Considering the above mentioned facts and



circumstances of the case, the allegation made in the F.I.R. as well as the minuscule evidence collected against the petitioner No.2, namely, Chandeshwar Thakur @ Chandrashekhar Thakur, the petitioner No.2, namely, Chandeshwar Thakur @ Chandrashekhar Thakur is directed to be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, Chapra in connection with Maker P.S. Case No. 26 of 2021, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

So far as prayer for grant of bail to the petitioner



No.1, namely, Baban Ray @ Birendra Kumar Ray is concerned, considering the allegation made in the F.I.R. as well as the nature of serious offence, I am not inclined to release the petitioner No.1 on bail. Accordingly, his prayer for grant of bail is rejected.

However, the learned trial Court is directed to conclude the trial expeditiously, well within a period of six months. The Superintendent of Police, Chapra is directed to produce all the prosecution witnesses to depose their evidences on the date fixed by the learned trial Court. If no substantial progress takes place in trial, the petitioner No.1, if so advised, may renew his prayer for bail after six month.

(Purnendu Singh, J)

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