

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26582 of 2022

Arising Out of PS. Case No.-2 Year-2022 Thana- BARHARIA District- Siwan

Sabir Ali @ Sakir Ali Son Of Ali Ahmad Resident Of Village - Gaushi Hata,
P.S.- Barharia, District - Siwan, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 31305 of 2022

Arising Out of PS. Case No.-2 Year-2022 Thana- BARHARIA District- Siwan

Ishrat @ Ishrat Ali S/O Najrul Haque Resident Of Village-Gausihata, P.S.-
barharia, District-Siwan.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 26582 of 2022)

For the Petitioner/s : Mr.Prashant Kumar

For the Opposite Party/s : Mr.Prem Kumar Jha

(In CRIMINAL MISCELLANEOUS No. 31305 of 2022)

For the Petitioner/s : Mr.Ajay Kumar Pandey

For the Opposite Party/s : Mr.Parmanand Kumar

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 29-08-2022 Let the defects, if any, be removed within four weeks from today.

With the consent of learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State, both the applications arise out of same Police Station case have been heard together and disposed by this



common order.

Petitioners seek bail in a case registered in connection with Barharia P.S. Case No. 02 of 2022 for the offences punishable under Sections 147, 148, 149, 341, 323, 325, 307, 302, 120B of the Indian Penal Code.

Prosecution case is based on a written report filed by the informant alleging therein that on 01.01,2022 at about 4 pm he received an information that his brother Samsher Ali, who used to work in Poultry farm of one Sheikh Alimullah, has assaulted by FIR named accused persons and some unknown persons. It is further alleged that when the informant reached to the place of occurrence, the brother of the informant had already taken by the police for better treatment to PMCH, Patna. However, in the way the brother of the informant succumbed to injuries. It is also alleged that prior to the said incidence some dispute took place between deceased and co-accused and on account of the said dispute all the accused persons by hatching conspiracy committed the murder of his brother.

Learned counsel for the petitioners submits that admittedly, the informant is not an eye witness to the



alleged occurrence and general and omnibus allegation has been levelled against all the FIR named accused persons that they have assaulted the brother of the informant by means of lathi and danda. However, the allegation of indiscriminate assault have not been supported by post mortem report in as much as only one lacerated wound over the occipital region of the deceased was found. It is also submitted that even during the course of investigation, none of the witness has come forward and made specific allegation against the petitioners. It is next submitted that petitioners were arrested from their house being unaware that he have been named in the FIR which also shows their innocence and moreover, the petitioners are in custody since 03.01.2022 and the investigation of the crime is already been completed and the charge sheet has been submitted.

On the other hand, learned counsel for the State opposed the bail application of the petitioners and submits that specific allegation has been levelled against the FIR named accused persons that they in furtherance of common intention have caused death of the deceased. It is also submitted that so far as the petitioner Abid Ali @ Sakir Ali



is concerned, he is found involved in two other criminal cases where as petitioner Ishrat Ali is having fair antecedent. In response to the learned counsel for the petitioners submits that petitioner Abid Ali @ Sakir Ali is on bail in both the cases.

Having heard the rival contentions of the parties and taking into consideration the fact that general and omnibus nature of allegation and the informant is not an eye witness to the alleged occurrence and the post mortem report only suggest one injury over the head of the deceased, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-III, Siwan in connection with Barharia P.S.Case No. 02 of 2022 subject to the condition that one of the bailors will be the close relatives of the petitioners with further conditions which are as follows:-

- (i) The petitioners will cooperate in conclusion of the trial.
- (ii) They will remain present on each and every



date of trial till disposal of the case.

(iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(v) The Court below shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed his criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above- mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

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