

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35286 of 2022

Arising Out of PS. Case No.-10 Year-2022 Thana- DELHA District- Gaya

Santosh Chaudhary @ Santosh Kumar Son Of Late Suresh Chaudhary
Resident Of Mohalla- New Godown, Pahsi, P.S.- Kotwali, District- Gaya
... .. Petitioner/s

Versus

The State of Bihar Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 37437 of 2022

Arising Out of PS. Case No.-10 Year-2022 Thana- DELHA District- Gaya

Kamdeo Chaudhary Son of Late Tulsi Chaudhary Resident of Village-Chana,
P.S.-Chndauti, District-Gaya.
... .. Petitioner/s

Versus

The State of Bihar Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 35286 of 2022)

For the Petitioner/s : Mr. Priya Ranjan, Adv.

For the Opposite Party/s : Mr. Bal Mukund Prasad Sinha. APP.

(In CRIMINAL MISCELLANEOUS No. 37437 of 2022)

For the Petitioner/s : Mr. Vishwa Ranjan Choudhary, Adv.

For the Opposite Party/s : Mr. Anita Kumari, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

4 18-10-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the petitioners and learned
A.P.P. for the State as well as learned counsel for the informant.

The petitioners seek regular bail in connection with
Delha P.S. Case No. 10 of 2022, lodged under Sections 364,
302, 120B of the Indian Penal Code read with Section 27 of
Arms Act.

As per prosecution case, the allegation has been made
in the F.I.R. that the informant, who is brother of the deceased

Gariban Chaudhary, has raised strong suspicion and made accused to 15 named persons in this case, alleging therein that accused persons have assaulted the informant and his family and subsequently he went out towards Police Station for lodging F.I.R. on 16.01.2022, but the co-villager has informed that the dead body of Gariban Chaudhary was found, upon which the informant reached there and saw that the deceased has sustained a gun shot injury on the head and chest, and it has been alleged that all the 15 persons have kidnapped the deceased and then fired on his head and chest and thereafter thrown his dead body.

Learned counsel for the petitioner of Cr. Misc. No.35286 of 2022 submits that petitioner is innocent and has committed no offence. He further submits that there are two F.I.Rs. filed by the informant side, the first F.I.R. was filed on 16.01.2022 at about 23.30 by one Raj Kumar Chaudhary, making allegation against 15 persons stating that all 15 persons have entered in the house of informant and assaulted him and his family. In the said F.I.R. it has been intimated that the death of Gariban Chaudhary took place. He further submits that Chandauti P.S. Case No. 16 of 2022 was lodged at the night of 16.01.2022 at 23.30. He also submits that informant party were well aware that death of Gariban Chaudhary took place,

thereafter, the informant side again filed another case i.e. Delha P.S. Case No. 10 of 2022 against the same 15 persons, alleging that they have killed Gariban Chaudhary and injured other persons. Learned counsel for the petitioner further submits that the earlier filed F.I.R. may be treated as genuine and the present F.I.R., in which petitioner is seeking bail is appears to be doubtful. He further submits that petitioner is in custody since 29.03.2022 and charge sheet has already been filed in this case. He further submits that petitioner has one criminal antecedent i.e. earlier F.I.R., otherwise the antecedent of petitioner is clean. He further submits that petitioner is ready to fulfill all the conditions whatsoever shall be imposed upon him by the Court.

Learned counsel for the petitioner of Cr. Misc. No.37437 of 2022 submits that there is no direct allegation against the present petitioner and all the allegations made against him are general and omnibus. He further submits that petitioner is in custody since 18.01.2022 and charge sheet has already been filed in this case. He further submits that petitioner is ready to fulfill all the conditions whatsoever shall be imposed upon him by the Court.

Supplementary affidavit has been filed by the petitioner of Cr. Misc. No.37437 of 2022 indicating that there is

one criminal antecedent against the present petitioner which was filed by the informant party itself, otherwise his antecedent is clean.

Learned counsel for the State opposes the prayer for bail.

Learned counsel for the informant vehemently opposes the prayer for bail and submits that recovery of dead body took place on 17.01.2022, so the second case is to be treated as correct.

Upon seeking explanation about filing of first case, learned counsel for the informant submits that informant is illiterate and only due to this reason wrong F.I.R. has been lodged on 16.01.2022. He further submits that both the cases are pending against the petitioners. It is the trial court who shall ascertain the truth. In the case diary the material has come against them, therefore, petitioners may not be granted bail.

In the present facts and circumstances of this case and the submissions made above, let the petitioners above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge XV, Gaya in connection with Delha P.S. Case No. 10 of 2022,

subject to the conditions as laid down under Section 437(3) of Cr.P.C. with other following conditions:

A. The petitioners shall support in trial and shall appear physically before the lower court on each and every date fixed, in case of non-appearance for two consecutive dates without sufficient cause, shall be resulted into cancellation of their bail bond.

B. One of the bailors shall be close relative who shall file affidavit before the court about his relationship with the petitioners.

C. The petitioners shall file an affidavit at the time of furnishing of bail bond that they shall not involve in such criminal activity during the continuance of present bail bond, violation of this condition shall be resulted into cancellation of their present bail bond.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

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