

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41649 of 2021

Arising Out of PS. Case No.-101 Year-2021 Thana- SASARAM NAGAR District- Rohtas

Ajay Dubey, S/O Late Gopal Dubey, R/O Mohalla-Lashkariganj, P.S-Sasaram
(Town), District-Rohtas.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 47995 of 2021

Arising Out of PS. Case No.-101 Year-2021 Thana- SASARAM NAGAR District- Rohtas

Chandan Dubey, S/O Late Gopal Dubey, R/o Mohalla- Lashkariganj, P.S.-
Sasaram (Town), District- Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 41649 of 2021)

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate
Mr. Ajay Kumar Tiwari, Advocate

For the State : Mr. Pronoti Singh, APP

For the Informant : Mr. Pramod Mishra, Advocate

(In CRIMINAL MISCELLANEOUS No. 47995 of 2021)

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate
Mr. Ajay Kumar Tiwari, Advocate

For the State : Dr. (Mrs.) Indihar Kumari, APP

For the Informant : Mr. Pramod Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 18-07-2022 Heard learned counsel for the petitioners, learned
APP for the State and learned counsel for the informant.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks from the date of
resumption of physical filing and physical removal of defect.



In the present case, the petitioners seek bail in connection with Sasaram (Town) P.S. Case No. 101 of 2021 registered for the alleged offences under Sections 341, 325, 326, 307, 302, 34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case is that the petitioners along with other co-accused persons on account of dispute over '*Jajmanika*' and ancestral property, assaulted the informant and his family members causing death of brother of the informant and injury to other family members. Allegation against the petitioner Ajay Dubey is of firing upon the brother of the informant Jitendra Dubey, who received injury and allegation against the petitioner Chandan Dubey is of smashing the head of the brother of the informant Madhav Dubey.

The learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in the case. The informant's side is the assailant and they assaulted the father of the petitioners causing his death and for the said occurrence Sasaram (Town) P.S. Case No.100 of 2021 has been registered against informant's side under Sections 341, 448, 386, 302/34 of the Indian Penal Code and Section 27 of the Arms Act. The aforesaid case is prior to the present case. As a counterblast, the informant's side has instituted the present case. Learned



counsel further submits that the informant's side has not explained the injury on the petitioners and their family members and the death of the father of the petitioners. When the prosecution side committed murder of the father of the petitioners, the people nearby assembled and the crowd retaliated causing injury to the informant's side. Learned counsel further submits that though the co-accused Ram Bhajan Dubey is stated to have fired upon the deceased Madhav Dubey resulting in the deceased falling down, no such injury of firearm has been found on his person. The post mortem report of Madhav Dubey shows the cause of death due to hard and blunt substance and not by firearm injury. Learned counsel further submits that the allegation of assault either by firearm or by any other mode has not been made against the petitioner Ajay Dubey for causing the death of the deceased Madhav Dubey. Learned counsel further submits that the learned lower court while rejecting the bail petition committed an error of record whereunder it has recorded that Jitendra Dubey also died which is not a fact. In fact, Jitendra Dubey was arrested and was sent to custody on 12.03.2021 in connection with a case lodged by the petitioners' side. Learned counsel further submits that there is common allegation against the petitioner Chandan Dubey and co-accused Vishal Debey that they smashed the head of Madhav Debey with stone, but it is not clear whose blow was fatal.



Learned counsel further submits that co-accused Ram Bhajan Dubey has been granted bail by a Coordinate Bench of this Court vide order dated 20.06.2022 passed in Cr. Misc. No. 42280 of 2021. Learned counsel also submits that charge sheet has been submitted in this case and the petitioners are in custody since 06.02.2021.

Learned APP as well as learned counsel for the informant opposes the prayer for bail. Learned counsel for the informant submits that there is specific allegation against the petitioners. Against the petitioner Ajay Dubey, he is alleged to have fired upon Jitendra Dubey, who received injury and the injury report supports the same and at the same time, the petitioner Chandan Dubey has hit on the head with stone and the post mortem report shows the death was caused due to hard and blunt substance. Learned counsel further submits that father of the petitioners might have sustained injury from the firing made by his own side.

Perused the records.

Having regard to the rival submissions made hereinabove and considering the fact that there is case and counter case in which both sides appears to have participated and the injuries have been suffered by both the sides and both the sides lost a life of a family member, so false implication



cannot be ruled out and further considering the fact that the charge sheet has been submitted in this case and further considering the period of custody of the petitioners, they 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, Rohtas at Sasaram in connection with Sasaram (Town) P.S. Case No.101 of 2021, subject to the following conditions :

(i) One of the bailors will be the close relative of the petitioners.

(iii) The petitioners will remain present on each and every date fixed by the court below.

(iv) 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)

V.K.Pandey/-

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