

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48372 of 2021**

Arising Out of PS. Case No.-73 Year-2021 Thana- BARHARIA District- Siwan

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PRADEEP PRASAD @ PRADEEP KUMAR Son of Raja Ram Prasad @
Raja Ram Bhagat Resident of Village - Halim Tola, P.s.- Barharia, Distt.-
Siwan.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 48467 of 2021

Arising Out of PS. Case No.-73 Year-2021 Thana- BARHARIA District- Siwan

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BHIM PRASAD S/o- VISHWAKARMA PRASAD Resident of Village-
Halim Tola, P.S.- Barharia, District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

with

CRIMINAL MISCELLANEOUS No. 53699 of 2021

Arising Out of PS. Case No.-73 Year-2021 Thana- BARHARIA District- Siwan

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DILIP THAKUR SON OF DEORAJ THAKUR R/O VILLAGE- HALIM
TOLA, P.S.- BARHARIYA, DIST.- SIWAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

=====

with

CRIMINAL MISCELLANEOUS No. 59467 of 2021

Arising Out of PS. Case No.-73 Year-2021 Thana- BARHARIA District- Siwan

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VIKASH PRASAD @ VIKASH KUMAR S/o SATAN PRASAD @ SATYA
NARAYAN PRASAD R/o VILLAGE-HALIM TOLA, P.S.- BARHARIYA,
DISTRICT-SIWAN.

... .. Petitioner/s

Versus



THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 48372 of 2021)

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate
Mr. Ram Chandra Sahni, A.P.P.
For the informant : Mr. Irshad Ahmad Khan, Advocate
Mr. Shambhu Prasad Yadav, Advocate
For the State : Mr. Ram Priya Sharan, A.P.P.

(In CRIMINAL MISCELLANEOUS No. 48467 of 2021)

For the Petitioner/s : Mr. Ramchandra Sahni, Advocate
For the Opposite Party/s : Mr. Chandra Bhushan Prasad, A.P.P.

(In CRIMINAL MISCELLANEOUS No. 53699 of 2021)

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate
For the Opposite Party/s : Mr. Kumar Ranjeet Ranjan, A.P.P.

(In CRIMINAL MISCELLANEOUS No. 59467 of 2021)

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate
For the Opposite Party/s : Mr. Akshay Lal Pandit, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 28-04-2022 Heard learned counsel for the petitioners and

learned Additional Public Prosecutor appearing for the

State.

Petitioners seek regular bail in connection with
Barhariya P.S. Case No. 73 of 2021 registered for the
offences punishable under Sections 147, 323, 324, 302,
120B of the Indian Penal Code 1860 and Section 27 of the
Arms Act.

The allegation, as per the First Information
Report, is that petitioner of Cr. Misc.59467/2021, namely,
Niwas Prasad @ Vikas Kumar, arrived at the informant's
house and called his brother and took him away along with



him. It has further been alleged that during course of taking the informant's brother away, Vikas Kumar told him that the petitioners and other accused persons were waiting for him and they wanted to talk with the brother of the informant (deceased) and after an hour one villager informed the informant that sound of firing was heard and the informant's brother had sustained bullet injury, upon which, he proceeded towards the place of occurrence where they found that the brother of the informant was having injuries caused by *lathi*, *danda*, *rod* and bullet injury. The informant has raised suspicion that the accused persons named in the First Information Report have assaulted the informant's brother and shot him dead in his mouth.

Learned counsel for the petitioners submits that the petitioners have falsely been implicated in this case due to some rivalry and they have not committed any offence in the manner alleged. He further submits that from perusal of the First Information Report, it would be evident that the informant proceeded towards the place of occurrence upon the information received by him that the sound of firing was heard by the villagers and the informant has also claimed



that his brother has been killed due to gun shot injury in his mouth but from perusal of the postmortem report, it would be evident that the deceased has got no gun shot injury. He next submits that the petitioners have got no criminal antecedents and they are in custody since 5.5.2021, 26.3.2021, 28.4.2021 and 9.4.2021 respectively.

On the other hand, learned counsel for the informant submits that the petitioners are named in the First Information Report and suspicion has been raised against them and during course of investigation one witness in paragraph 107 of the case diary disclosed the name of the petitioners as assailants. In reply, learned counsel for the petitioners submits that the statement of the witness was recorded after two and half months from the date of occurrence.

Regards being had to the submission made by the parties and taking into consideration the materials on record and the fact that the present case is based upon the circumstantial evidence, no gun shot injury was found on the person of the deceased, the petitioners are in custody for about a year, charge sheet has already been submitted and



they are not having any criminal antecedent, I am inclined to grant regular bail to the petitioners.

Accordingly, let the petitioners, above named, be released on regular 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 A.C.J.M.-III/CJM, Siwan, in connection with Barhariya P.S. Case No. 73 of 2021 subject to the condition that the petitioners will be well represented on each date in the trial and if they fail to do so on two consecutive dates, their bail bonds will be liable to be cancelled.

(Anil Kumar Sinha, J)

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