

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59237 of 2021

Arising Out of PS. Case No.-152 Year-2021 Thana- SHASTRINAGAR District- Patna

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RITESH RAJ @ GUDDU @ GUDDU GUNDA S/o - Sanjay Kumar R/o-
Brahm Asthan Gali, Rukanpura, P.S.- Shashtri Nagar, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 48656 of 2021

Arising Out of PS. Case No.-152 Year-2021 Thana- SHASTRINAGAR District- Patna

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NITISH @ NITISH KUMAR S/o Pramod Kumar Singh Resident of
I.G.I.M.S. Gate No. 02, Brahamsthani Gali, P.S.- Shastri Nagar, District-
Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 52991 of 2021

Arising Out of PS. Case No.-152 Year-2021 Thana- SHASTRINAGAR District- Patna

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RAHUL KUMAR @ RAHUL @ VAKKU SON OF ANIL KUMAR SINGH
R/O MOHALLA- BODY BUILDER GALI, SHEKHPURA, P.S.- HAWAI
ADDA, DISTRICT- PATNA

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 54887 of 2021

Arising Out of PS. Case No.-152 Year-2021 Thana- SHASTRINAGAR District- Patna

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NITISH KUMAR @ KALLU Son of Awadhesh Kumar Singh Resident of
Village - Mali Gali, Hawaii Adda, P.S.- Hawaii Adda, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 59237 of 2021)

For the Petitioner/s : Mr.Sanjeev Kumar Singh

For the State : Lalan Kumar, Addll. APP(I/C)

(In CRIMINAL MISCELLANEOUS No. 48656 of 2021)

For the Petitioner/s : Mr.Sabal Kumar Jha

For the State : Smt. Pushpa Sinha

(In CRIMINAL MISCELLANEOUS No. 52991 of 2021)

For the Petitioner/s : Mr.Ajit Kumar

For the State : Mr.Nand Kishore Prasad, APP

(In CRIMINAL MISCELLANEOUS No. 54887 of 2021)

For the Petitioner/s : Mr.Prakash Chandra Jha

For the State : Mr.Ram Priya Sharan Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 22-06-2022 Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

Heard Sri Krishna Prasad Singh learned Senior counsel for the petitioners assisted by Sri Shravan Kumar, Advocate as well as learned A.P.P. for the State assisted by learned counsel for the informant.

The petitioners seek bail in connection with Shashtri Nagar P.S. Case No. 152 of 2021 registered for the offences punishable under Sections 307, 302, 120B of the Indian Penal Code and 27 of the Arms Act.

As per prosecution case, on 31.03.2021, the father of the informant was taking meal in the hotel, suddenly petitioners and others came there and started firing upon which the father of the informant received bullet injury and died on the place of

occurrence. Due to firing a child aged about 9 years also received bullet injury on his elbow. It is also stated that father of the informant had started a Mahavir medical shop with partnership of Ravi. One Nitish owner of Anshika Pharma medical shop used to threaten the father of the informant to shut down his medical shop, otherwise he will be killed. It is further alleged that petitioners and other had made conspiracy to kill his father.

It is submitted on behalf of the petitioners that as per prosecution case, eight persons are named and 4-5 unknown persons are made accused in the present case alleging general and omnibus allegation. He further submits that on the basis of prosecution story, there is no specific allegation against the petitioners to make fire upon the deceased/father of the informant and on the basis of suspicion petitioners are implicated in the present case. As per postmortem report itself, there is no overt act or repetition of firing who received single bullet injury and the doctor has found single bullet injury on the body of the deceased. The petitioner Ritesh Raj @ Guddu @ Guddu Gunda is in custody since 14.06.2021, petitioner Nitish @ Nitish Kumar is in custody since 09.06.2021, petitioner Nitish Kumar @ Kallu is in custody since 22.04.2021 and

petitioner Rahul Kumar @ Rahul @ Vakku is in custody since 14.06.2021. All the three petitioners bear no criminal antecedent, except petitioner Nitish @ Nitish Kumar who bears criminal antecedent of three cases. So far as allegation of threatening against petitioner Nitish @ Nitish Kumar son of Pramod Kumar Singh as alleged in the FIR is concerned, no material has come on record in support of said allegation. So far as the postmortem report is concerned, deceased sustained only one firearm injury and several persons have been alleged to have involved in the alleged occurrence. Chargesheet has been submitted in the case and there is no chance of tampering the evidence. Co-accused Sandeep @ Sandeep Kumar and Ravi Raj @ Ravish Kumar have already been granted bail by a coordinate bench of this Court vide Cr. Misc. Nos. 40661 of 2021 and 41749 of 2021 and the petitioners stand on similar footing so far as the nature of allegation is concerned and moreover, it is submitted that there is no eye witness of alleged commission of the murder as the murder took place near Braham Ashthani Gali, which is located near Gate no. 3, IGIMS next to Max Hospital. It has been specifically and categorically submitted that the manner in which the allegation has been narrated in the fardbeyan recorded by the police do not disclose the very fact

that from whom the informant had gathered the knowledge about the alleged incident of murder of his father in absence of any eye witness to the alleged incident. In absence of disclosure made by the informant to that effect, the entire allegation against the petitioners to have committed murder of the father of the informant is false and not sustainable.

The learned counsel for the informant Sri Rajeev Ranjan Pandey as well as learned APP for the State vehemently oppose the prayer for bail of the petitioners.

Considering the facts and circumstances of the case as well as period of custody and also nature of allegation and taking into consideration the material available on record, and chargesheet has already been submitted, let the petitioners above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-IV, Patna in connection with Shashtri Nagar P.S. Case No. 152 of 2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who sworn the affidavit in bail application.

(ii) Bailors should be local having sufficient

immovable property within the jurisdiction of the Court concerned.

(iii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates would be a ground for cancellation of bail by the learned Trial court itself.

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

(Alok Kumar Pandey, J)

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