

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45180 of 2022

Arising Out of PS. Case No.-91 Year-2020 Thana- JALALPUR District- Saran

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Dudhnath Mahto Son of Igrashan Mahto Resident of Village - Makanpura,
P.S.- Jalapur, District - Saran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 46173 of 2022

Arising Out of PS. Case No.-91 Year-2020 Thana- JALALPUR District- Saran

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Ashok Prasad Son of Late Shiv Shankar Prasad Resident of village -
Makanpura, P.S.- Jalalpur, District - Saran (Chapra).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 45180 of 2022)

For the Petitioner/s : Mr. Gajendra Kumar Singh, Adv.

For the Opposite Party/s : Mr. Ramchandra Sahni, APP.

(In CRIMINAL MISCELLANEOUS No. 46173 of 2022)

For the Petitioner/s : Mr. Mukesh Kumar Singh, Adv.

For the Opposite Party/s : Mr. Dr. Mrityunjaya Kr.Gautam, APP.

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 30-11-2022 Both the criminal miscellaneous petitions have arisen

out of the same police station case number, hence they are being

heard together and disposed of by a common order.

The learned counsels for the petitioners are directed

to remove all the defects pointed out by the Stamp Reporter

within one month.



Heard learned counsels for the petitioners and the learned APPs for the State.

Petitioners seek regular bail in connection with Jalalpur P.S. Case No. 91 of 2020 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 324, 307, 379 and 302 of the Indian Penal Code.

As per the prosecution, the informant's son was looted by some unknown miscreants, who looted cash of Rs. 4000/-, a mobile phone and a gold chain and tried to kill him, in the meantime, he was saved by some villagers. Further it was alleged that the villagers disclosed the name of the miscreants including the petitioner Ashok Prasad and upon instigation of the petitioner Dudhnath Mahto assaulted Subhash Kumar, who is under treatment.

The main submissions advanced by learned counsel Mr. Gajendra Kumar Singh appearing for the petitioner Dudhnath Mahto are that the petitioner has no concern with the first part of the alleged occurrence which was alleged to have taken place on 28.05.2020 and as per the second part of the alleged occurrence relating to date 29.05.2020 the petitioner was alleged to have assaulted the informant (co-villager) namely Subhash Kumar but the said allegation is general and omnibus



and altogether more than 100 persons were alleged to have assaulted the said Subhash Kumar and his injury report has been filed as Annexure-2 which shows only two injuries on his body and the same were opined to be simple in nature by the Doctor concerned and the petitioner has fair and clean antecedent.

On behalf of the petitioner Ashok Prasad, it is argued by learned counsel Mr. Mukesh Kumar Singh, that the petitioner was named in the first part of the alleged occurrence which was alleged to have taken place on 28.05.2020 but against him there is no specific allegation and one co-accused Rajesh Mahto carrying similar nature of allegation has been granted bail by a co-ordinate Bench of this Court vide order passed in Cr. Misc. No. 38770 of 2020. Further submission is that the petitioner has clean and fair antecedent and in the FIR there is no specific allegation against him and six persons including the petitioner were named in the first part of the FIR and after petitioner's arrest in the present case, nothing incriminating has been recovered from his possession and the investigation has been completed against the petitioner who himself surrendered before the Court below.

Learned APPs Mr. Ramchandra Sahni and Dr. Mrityunjaya Kr. Gautam appearing for the State in Cr. Misc. No.



45180 of 2022 and Cr. Misc. No. 46173 of 2022 respectively have opposed the bail prayer.

Heard the both sides and perused the FIR. Though the petitioner Ashok Prasad is named in the FIR but the informant does not appear to be an eye-witness of the alleged occurrence and according to him his co-villagers disclosed the name of this petitioner and co-accused persons being involved in committing the alleged occurrence of murder of the son of the informant but in the FIR the names of the said co-villagers were not disclosed by the informant and in the FIR several persons were named in respect of the occurrence concerned to the informant's son but the allegation made against the petitioner is general and omnibus and one similarly situated co-accused Rajesh Mahto has been granted bail by a co-ordinate Bench of this Court vide order passed in above-mentioned Cr. Misc. Case and the said petitioner has clean antecedent. So far as the prayer of petitioner Dudhnath Mahto is concerned, the allegation made in the second part of the FIR is against more than 100 persons and on the body of the injured person namely Subhash Kumar only two injuries were found which is not corroborative to the nature of allegation made in the second part of the FIR and moreover against the said petitioner there is no specific allegation and he



has clean and fair antecedent. Considering all these facts, in the opinion of this Court both the petitioners deserve to a lenient approach of this court, let the petitioners be enlarged on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the Court concerned in connection with Jalalpur P.S. Case No. 91 of 2020, on the following conditions:-

(1) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

(2) 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.

(3) One of the bailers shall be a close relative of the petitioner who has sworn affidavit in their respective miscellaneous petitions.

(4) The court below will verify the criminal antecedent of both the petitioners but acceptance of bail bond will not be delayed on account of process of verification of the



said criminal antecedent. If any criminal antecedent of the petitioners is found then the court below shall take serious action against them for cancellation of their bail bond.

(Shailendra Singh, J.)

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