

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38736 of 2021

Arising Out of PS. Case No.-454 Year-2020 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

=====

KAILASH YADAV @ AMIT KUMAR Son of Late Natu Yadav Resident of
Village- Bari Khanjarpur, P.S.- Barari (Kotwali), District- Bhagalpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 38891 of 2021

Arising Out of PS. Case No.-454 Year-2020 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

=====

RAJU YADAV @ RAJESH KUMAR YADAV @ RAJESH YADAV Son of
Late Kapil Prasad Yadav Resident of Mohalla - Kathalbari, Police Station -
Barari, District - Bhagalpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 56183 of 2021

Arising Out of PS. Case No.-454 Year-2020 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

=====

BHUSAN YADAV @ BHUSAN KUMAR S/O SHRI BHOJU YADAV
Resident of Neel Kothi Ghat, Neer Kali Mandir, P.S.- Barari, District-
Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

(In CRIMINAL MISCELLANEOUS No. 38736 of 2021)

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Advocate.
Dr. Manoj Kumar, Advocate.

For the Opposite Party/s : Mrs. Gulnar Begum, APP.

(In CRIMINAL MISCELLANEOUS No. 38891 of 2021)

For the Petitioner/s : Mr. Mr. Krishna Prasad Singh, Sr. Advocate.



Dr. Manoj Kumar, Advocate.
For the Opposite Party/s : Mrs. Gulnar Begum, APP.
(In CRIMINAL MISCELLANEOUS No. 56183 of 2021)
For the Petitioner/s : Mr. Deepak Kumar Sinha, Advocate.
For the Opposite Party/s : Mr. Pranav Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

9 31-03-2022 Heard learned counsel appearing on behalf of the
petitioners and learned A.P.P. for the State.

Let the defect(s), if any, be removed within two
weeks of the complete start of the physical Court in normal
course.

The petitioners seek regular bail in connection with
Kotwali (Barari) P.S. Case No. 454 of 2020 for the offence
punishable under Sections 302/120B/34 of the Indian Penal
Code.

The prosecution story, in brief, is that the informant
who is the wife of the deceased on hearing fire arm sound woke
up and found her husband dead lying in the pool of blood. She
saw some miscreants fleeing away after jumping from the
boundary of her house. The incident took place in the mid night
around 12 to 1 AM. She has made suspicion on the F.I.R. named
accused Dilip Yadav, Bhushan Yadav. Kailash Yadav and Raju
Yadav that due to certain political rivalry amongst her husband
and the named accused, they have committed murder of her
husband. She has further alleged that before this incidence, they



had threatened her husband of dire consequences. She also alleged that her husband and Raju Yadav were jointly involved in sale and purchase of land and there was some dispute between them with regard to distribution of profit out of sale and purchase of land.

Learned senior counsel appearing on behalf of the petitioners submits that on mere suspicion, the name of the petitioners has been taken by the informant. She is not the eye witness of the occurrence and she has only seen some of the miscreants fleeing away from the place of occurrence after having committed murder of her husband. He has made specific statement in this regard that it is very clear from the allegation itself that she can recognize all the accused named in the F.I.R. as she was very much conversant because all of them were having some sort of enmity with her husband, so far as Raju Yadav is concerned, he was having a business relationship with her husband, but even being eye witness in the first information report, she could not recognize rather allegation has been made against some unknown persons. Charge sheet has been submitted in this case. There is no allegation of tampering with the evidence or influencing the witnesses. Petitioners have clean antecedent and they are in custody since 11.01.2021, 05.01.2021



and 19.01.2021 respectively.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioners. He submits that tower location of one Bhushan Yadav has come in course of technical investigation as it would appear from Para-54 and 55 of the case diary and that of other accused persons who have separately filed their bail application namely Kailash Yadav and Raju Yadav would not be determined.

Considering the rival submissions as well as allegation made in the F.I.R., it appears that the informant is not the eye witness of the occurrence of murder and has seen with her own eye some of the miscreants fleeing away and she has not named as to whether present petitioners had committed murder of her husband, however on mere suspicion she has named all of above named petitioners who have filed separate bail applications. In this regard, law is well settled that suspicion howsoever strong cannot take the place of proof and for suspicion an under trial prisoner cannot be kept behind the bar even after completion of investigation.

The petitioners, above named, are directed to be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) each with two sureties of the like amount



each to the satisfaction of the learned CJM, Bhagalpur in connection with Kotwali (Barari) P.S. Case No. 454 of 2020, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

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

(4) If the petitioners are found involved in similar nature of offence, after their release on bail, the trial Court shall take steps to cancel their bail bonds.

(Purnendu Singh, J)

mantreshwar/-

U		T	
---	--	---	--

