

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56680 of 2021

Arising Out of PS. Case No.-345 Year-2020 Thana- GAYA MUFASIL District- Gaya

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Pankaj Kumar @ Pankaj Yadav Son Of Lala Yadav @ Lala Prasad Yadav
Resident Of Village- Nauranga, P.S- Muffasil, Dist- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 454 of 2022

Arising Out of PS. Case No.-345 Year-2020 Thana- GAYA MUFASIL District- Gaya

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KAMLESH KUMAR @ KAMLESH SAW Son of Late Lakho Saw Resident
of Village - Nauranga, P.s.- Muffasil, Distt.- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 56680 of 2021)

For the Petitioner/s : Mr. S. K. Lal, Advocate.

For the Opposite Party/s : Mr. Mukeshwar Dayal, APP.

(In CRIMINAL MISCELLANEOUS No. 454 of 2022)

For the Petitioner/s : Mr. S. K. Lal, Advocate.

For the Opposite Party/s : Mr. Ajay Kumar Jha, APP.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 13-09-2022 Learned counsel for the petitioners is permitted to

remove defect(s), as pointed out by the office, if any, within a

period of four weeks from today.

Heard Mr. S.K. Lal, learned counsel for the petitioners

as well as learned Additional Public Prosecutor for the State.

At the outset learned counsel for the petitioners



submits that same mistake has occurred in paragraph no. 3 of Cr. Misc. No. 454 of 2022 and as such, a supplementary affidavit has been filed clarifying the position.

With the consent of the parties, both the matters are being heard together and disposed of by the present common order.

The application for grant of bail to the petitioners, above named, who have been made accused and put behind the bar in connection with Muffasil P. S. Case No. 345 of 2020 registered for the offences punishable under Sections 302 and 201 read with 34 of the Indian Penal Code.

As per the prosecution case, it is alleged that on 15.09.2020 the cousin of the informant had gone to purchase some articles for construction by taking Rs. 35,000/-. On the way, he was abducted by altogether twelve F.I.R. named accused persons and 6-7 others. It is also alleged that when the informant reached there he found his cousin alive and on the way to the hospital, the victim disclosed the name of the co-accused persons including the petitioner in Cr. Misc. No. 56680 of 2021, So far the petitioner in Cr. Misc. No. 454 of 2022 is concerned, he is not named in the F.I.R.

Learned counsel appearing on behalf of the



petitioners submitted that in course of investigation, no material has come to suggest the participation of the petitioners in the alleged occurrence. It is further submitted that it has never been examined as to whether the victim was in a position of making any statement and giving any information about the alleged occurrence to the informant. It is a fact to be considered only in course of trial. It is next submitted that during the course of investigation, it has come that none of CCTV footage was available with the shopkeepers, which was shown the alleged incidence, though the Investigating Officer of this case has recorded in paragraph 26 that one of the shopkeepers made him available CCTV footage in which accused persons were seen taking the victim. It is further submitted that various other co-accused persons, who were said to have been identified in CCTV footage, they have already been granted bail by learned co-ordinate Benches of this court. The copies of the same have been produced before this court and the same are kept on record. It is last submitted that the petitioner in Cr. Misc. No. 56680 of 2021 is in custody since 15.01.2021 and petitioner in Cr. Misc. No. 454 of 2022 is incarceration since 27.05.2021 and moreover, the investigation of the crime is already concluded much earlier.



On the other hand, learned APP for the State opposed the bail applications and submits that both the petitioners have been identified in CCTV footage and materials have come during the course of investigation showing the complicity of the petitions. It is also submitted that both the petitioners have multiple criminal antecedent.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that the co-accused persons having identical allegation have already been granted bail by learned co-ordinate Benches of this court and parity also demands similar treatment, apart from the fact that statement of the deceased was not recorded and heard by any independent person and the petitioners are in custody since 15.01.2021 and 27.05.2021 respectively, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, VII, Gaya in connection with Muffasil P. S. Case No. 345 of 2020, subject to the condition that one of the bailors will be the close relative of the petitioners with further conditions which are as follows:-

- (i) The petitioners will cooperate in conclusion of the



trial.

- (ii) They will remain present on each and every date of trial till disposal of the case.
- (iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.
- (v) The Court below shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

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(Harish Kumar, J)

