

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69928 of 2021

Arising Out of PS. Case No.-66 Year-2021 Thana- BAHERI District- Darbhanga

MAHESH MANDAL, S/o Ram Prakash Mandal R/o village- Danikhon, P.S.-
Baheri, District- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 50983 of 2022

Arising Out of PS. Case No.-66 Year-2021 Thana- BAHERI District- Darbhanga

JITENDRA MANDAL @ JITENDRA KUMAR, Son of Sitaram Mandal
R/V- Madhuban P.S- Baheri, Dist - Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 69928 of 2021)

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

For the Informant : Mr. Kedar Jha, Advocate

For the State : Mr.Shyameshwar Dayal, APP

(In CRIMINAL MISCELLANEOUS No. 50983 of 2022)

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

For the State : Mr. Dinesh Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 10-10-2022 Since both the applications arise out of Baheri P.S.

Case No. 66 of 2021 as such, they have been heard together and

are being disposed of by this common order.

Heard learned counsel for the petitioners and learned

APP for the State.

Let the defect (s), as pointed out by the office, be



removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioners seek bail in connection with Baheri P.S. Case No. 66 of 2021 registered for the alleged offences under Sections 147, 148, 149, 341, 323, 307 and 302 of the Indian Penal Code.

As per prosecution case, in the background of land dispute, the informant, his brother and his father were assaulted by the petitioner and other co-accused persons and father of the informant succumbed to his injuries during treatment.

Learned counsel for the petitioners submits that there is case and counter case and the petitioners' side has also received injuries for which there is no explanation. The allegations are mostly general and omnibus and no specific overt act has been attributed to the petitioners. In the F.I.R., there is specific allegation against the petitioner Mahesh Mandal that he assaulted the father of the informant with *axe* but even the same is not supported by the post mortem report which shows cause of death to be cranio cerebral damage consequent upon head injury caused by hard and blunt objects and its free impact. There is no allegation that the petitioner Mahesh Mandal caused any such head injury. Learned counsel further submits that the petitioner Jitendra Mandal has been made accused in this case merely due to



fact that he is the son-in-law of the petitioner Mahesh Mandal, he was not even present at the place of occurrence during the relevant time. The petitioners are in custody since 03.07.2021 and 14.07.2022, respectively and charge sheet has been submitted in this case.

Learned APP for the State and learned counsel appearing on behalf of the informant vehemently oppose the prayer for bail of the petitioners. Learned counsel for the informant further submits that in paragraph 48 of the case diary, it has been mentioned that the petitioner Mahesh Mandal assaulted the father of the informant with iron rod on his head and other co-accused persons also assaulted the victim with different weapons.

Having regard to the facts and circumstances and rival submission of the parties and considering the fact that the petitioner Mahesh Mandal is said to have assaulted on the head of the father of the informant with iron rod and the post mortem report shows death due to cranio cerebral damage consequent upon head injury caused by hard and blunt objects, I am not inclined to enlarge the petitioner Mahesh Mandal on bail and hence, his prayer for grant of bail is rejected.

The learned trial court is directed to expedite the trial and conclude the same within six months.

However, considering the non-specific nature of



allegation against the petitioner Jitendra Mandal, the petitioner Jitendra Mandal is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-VII, Darbhanga, District-Darbhanga in connection with Baheri P.S. Case No. 66 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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