

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51821 of 2021**

Arising Out of PS. Case No.-94 Year-2020 Thana- SALAKHUA District- Saharsa

PARMANAND YADAV @ PARO YADAV @ PRAMOD Son of Late
Jugeshwar Yadav @ Late Yugeshwar Yadav Resident of Village- Sukhasan,
P.S.- Bakhtiyarpur, District- Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 64925 of 2021

Arising Out of PS. Case No.-94 Year-2020 Thana- SALAKHUA District- Saharsa

Barun Yadav @ Varun Yadav Son Of Kuldeep Yadav R/O Village- Alauli,
P.S.- Alauli, District- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 51821 of 2021)

For the Petitioner/s : Mr. Vivekanand Singh, Advocate with
Mr. Rashmi Jha, Advocate.

For the State : Mr. Narsingh Tanti, APP

For the Informant : Mr. Shekhar Kumar Singh, Advocate.

(In CRIMINAL MISCELLANEOUS No. 64925 of 2021)

For the Petitioner/s : Mr. Vivekanand Singh, Advocate with
Mr. Rashmi Jha, Advocate.

For the State : Mr. Upendra Kumar, APP.

For the Informant : Mr. Shekhar Kumar Singh, Advocate.

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER**

9 29-08-2022 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. Vivekanand Singh, learned counsel for the
petitioners, Mr. Shekhar Kumar Singh, learned counsel for the
informant as well as learned Additional Public Prosecutor for
the State.



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 Salkhua P. S. Case No. 94 of 2020 registered for the offences punishable under Sections 302, 504, 506 read with 34 of the Indian Penal Code and Sections 25(1-b)a, 26, 35 and 27 of the Arms Act.

As per the prosecution case, it is alleged that on 08.04.2020 at about 05:30 P.M. while the informant along with her husband and son were coming from the field carrying wheat on horse, in the meantime, 30 to 35 naxalites and criminals surrounded them out of whom, the informant identified eight persons, including the petitioners. It is further alleged that all the accused persons fired on her husband and killed him. It is subsequently alleged that both the petitioners have fired on the abdomen and temporal region of the deceased respectively, causing his death.

Learned counsel appearing on behalf of the petitioners submitted that from the tenor of the F.I.R., it is evident that all the eight F.I.R. named accused persons along



with 30 to 35 other accused persons have resorted firing and it is highly improbable that the informant could identify as to of which firing the deceased has sustained fire-arm injury on which part of the body and this creates doubt on the whole prosecution story. It is next submitted that just after the institution of the F.I.R., the statement of the informant was recorded, wherein she has not made any specific allegation against anyone, rather a general and omnibus allegation has been levelled and similar kind of statement has also been made by the son of the deceased, who was said to be present at the place of occurrence. It is further submitted that the deceased was a veteran criminal, having 25 criminal cases on his head. He might have been killed by other persons and only because of previous enmity, the name of the petitioners have been implicated in this case. It is next submitted that prior to the alleged occurrence one Rani Devi, wife of Rajesh Yadav had lodged Alauli P. S. Case No. 165 of 2016, wherein the petitioner in Cr. Misc. No. 64925 of 2021 was one of the witnesses to the alleged occurrence and also seizure list witness. Learned counsel for the petitioners also drawn the attention of this court towards paragraph no. 2 of the case diary, which would suggest that just after the occurrence, on receipt of the information, the



police reached at the place of occurrence and also held camp for the entire night and thereafter, in the morning inquest report has been prepared. Later on, post mortem was done and the F.I.R. has been instituted at 10:00 P.M. on 09.04.2020, which shows a clear deliberation and an after thought. It is next submitted that had the informant seen the occurrence, there was no reason and occasion to withhold the informations for such a pretty long time, when the police had immediately reached at the place of occurrence. It is further submitted that other two of the accused persons namely, Sarbir Yadav @ Sarbind Yadav and Parmanand yadav having similar allegation have already been granted bail by learned co-ordinate Bench of this Hon'ble Court in Cr. Misc. No. 70025 of 2021 and 44467 of 2021 vide orders dated 25.04.2022 and 11.04.2022 respectively. It is lastly submitted that the accused persons have criminal antecedents in as much as the petitioner (Parmanand Yadav @ Paro Yadav @ Pramod) bears 15 criminal cases whereas, the petitioner Barun Yadav @ Varun Yadav is found involved in four other cases.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that there is specific allegation that both these petitioners fired upon the abdomen and temporal region of the deceased and this



fact has also been corroborated by the post mortem report, which suggests that the deceased has sustained various fire-arm injuries including the injuries over the abdomen and temporal region. It is next submitted that both the petitioners are terror of the locality, prior to the alleged occurrence, they have also involved in the killing of the brother of the deceased. It is also submitted that since the deceased was earlier holding the post of Mukhiya just after his death huge assemblage of villagers occurred and as such, delay has caused in lodging of the F.I.R. but the informant has made specific allegation with regard to involvement of the petitioners. It is also submitted that during the course of investigation, other witnesses have also categorically stated that all the eight accused persons including the petitioners have fired upon the deceased, causing his death. It is next submitted that so far the other two accused persons namely, Sarbir Yadav @ Sarbind Yadav and Parmanand Yadav are concerned, their cases were different to these petitioners because in their cases the Hon'ble Court while granting the bail have found that the prosecution case has not been corroborated by the post mortem report.

Learned APP for the State also opposed the bail application of the petitioners. In response to the aforesaid



submissions learned counsel for the petitioners submitted that so far Parmanand Yadav @ Paro Yadav @ Pramod is concerned, though he is found involved in fifteen cases, out of which in eight cases he has been acquitted and in five cases he is on bail and in one case, the police has submitted final form and another case is in progress. So far Barun Yadav @ Varun Yadav is concerned, he has four criminal antecedents and out of four cases, in two cases, he is on bail.

Having considered the submissions made on behalf of the parties and taking into account the delay in lodging of the F.I.R. that too when the police was all along present at the place of occurrence, just after the occurrence, apart from the fact that during the course of investigation, the son of the deceased, who was also claiming to be eye-witness to the alleged occurrence have not made any specific allegation against anyone and moreover, in the further statement, the informant has also not made any specific allegation against anyone, apart from the fact that other two persons, having identical allegation have already been granted bail by learned co-ordinate Bench of this Hon'ble Court, 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-I, Saharsa in connection with Salkhua P. S. Case No. 94 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.

(Harish Kumar, J)

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