

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64589 of 2021

Arising Out of PS. Case No.-23 Year-2021 Thana- BALIA BELON District- Katihar

Sakibul @ Shah Sakibul S/O Md. Kasim R/O Village- Savanpur, Chandani
Chwok, P.S.- Balia Belon, District- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 64644 of 2021

Arising Out of PS. Case No.-23 Year-2021 Thana- BALIA BELON District- Katihar

Hasib, Son Of Md. Kajim, R/O Village- Chandani Chowk Tola, Shikarpur,
P.S.- Balia Belon, District- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 64589 of 2021)

For the Petitioner/s : Mr. Harish Chandra Patel. Advocate

For the State : Mr. Dashrath Mehta, APP

For the informant : Md. Manzer Karim, Advocate

(In CRIMINAL MISCELLANEOUS No. 64644 of 2021)

For the Petitioner/s : Mr. Ajit Kumar Singh. Advocate

For the State : Mr. Madhura Nand Jha, APP

For the informant : Md. Manzer Karim, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL ORDER

4 29-08-2022 Since both the applications arise out of Balia Belon

P.S. Case No. 23 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 as well as learned counsel for the informant.

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 Balia Belon P.S. Case No. 23 of 2021 registered for the alleged offences under Sections 302 and 34 of the Indian Penal Code.

As per prosecution case, the son of the informant died in his matrimonial home and when the informant reached there, he found the dead body of his son and both his legs were tied by a *gamchha* and right hand was fractured. The informant named the petitioner along with other two co-accused persons for killing his son.

The learned counsels for the petitioners submit that the petitioners have been falsely implicated in this case. On the alleged date of occurrence, they were not even present at their house as they have been working in Mumbai. There is no eye witness of the alleged occurrence. Not a single witness has come to support the prosecution case about the petitioners threatening or assaulting the deceased. The post mortem report falsifies the case of the informant as the death has not been found due to any assault and no apparent injury has been found on the body. However, viscera has been preserved to ascertain



the exact cause of death. The petitioners are in custody since 10.06.2021 and charge-sheet has been submitted against them. The petitioners have no criminal history.

Learned APP as well as learned counsel for the informant vehemently opposes the prayer for bail. The learned counsel for the informant submits that evidence of all the witnesses have been recorded except for the Investigating Officer and the next date fixed for this case is 07.09.2022. The learned counsel also submits as the death has occurred in the house of the petitioner and they are bound to explain the death.

Perused the records.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact of absence of injury marks on the body and cause of death not due to some assault and also considering the examination of all the witnesses except I.O. in this case along with period of custody of the petitioners, the petitioners above named are directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Katihar, in connection with Balia Belon P.S. Case No. 23 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 the person, who has sworn the affidavit in the case.

(ii) The petitioners 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 bonds of the petitioners will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

prabhakar/-

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