

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62042 of 2021

Arising Out of PS. Case No.-61 Year-2021 Thana- JURAWANPUR District- Vaishali

1. SATYENDRA KUMAR SINGH Son of Late Shyam Nandan Singh Resident of Village- Jurawanpur Karari, Police Station- Jurawanpur, District- Vaishali.
2. RAJ KISHORE SINGH Son of Late Ram Chandra Singh Resident of Village- Jurawanpur Karari, Police Station- Jurawanpur, District- Vaishali.
3. SHIV VIJAY SINGH @ SHIV JAY SINGH Son of Late Ram Chandra Singh Resident of Village- Jurawanpur Karari, Police Station- Jurawanpur, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 62046 of 2021

Arising Out of PS. Case No.-61 Year-2021 Thana- JURAWANPUR District- Vaishali

1. MUKESH SINGH Son of Jawahir Singh Resident of Village - Jurawanpur, Karari, P.s.- Jurawanpur, Distt.- Vaishali.
2. KUNAL SINGH @ MUNGERILAL S/O KANCHAN SINGH, VILLAGE JURAWANPUR KARARI,PS JURAWANPUR,DIST VAISHALI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 65175 of 2021

Arising Out of PS. Case No.-61 Year-2021 Thana- JURAWANPUR District- Vaishali

AJGAIVI SINGH @ AJGAIVINATH SINGH Son of Late Ram Kishor Singh adopted son of Shivji Singh Resident of Village- Jurawanpur Karari, P.S.- Jurawanpur, District- Vaishali.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :



(In CRIMINAL MISCELLANEOUS No. 62042 of 2021)
For the Petitioner/s : Mr.Uday Chand Prasad
For the Opposite Party/s : Mr. Md. Mustaque Alam, APP
(In CRIMINAL MISCELLANEOUS No. 62046 of 2021)
For the Petitioner/s : Mr. Raj Kumar
For the informant : Mr. Premchandra Yadav
For the Opposite Party/s : Mr.Narendra Kumar Singh
(In CRIMINAL MISCELLANEOUS No. 65175 of 2021)
For the Petitioner/s : Mr.Vasant Vikas
For the Opposite Party/s : Mr.Manoj Kumar

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

4 12-04-2022 Cr. Misc. No. 62046 of 2021 has been filed by accused, Mukesh Singh and Kunal Singh, Cr. Misc. No. 62042 of 2021 has been filed by accused, Satyndra Kumar Singh, Raj Kishore Singh, and Shiv Vijay Singh @ Shiv Jay Singh and Cr. Misc. No. 65175 of 2021 has been filed by accused, Ajgaivi Singh @ Ajgaivinath Singh.

They all are accused in Crime No.61 of 2021, registered with Jurawanpur Police Station for the offences punishable under Sections 147, 148, 149, 341, 323, 302, 120B, 504, 506 of the Indian Penal Code.

After filing of the charge-sheet, they all are claiming bail. All these applications are decided by this common order as the applicants are accused in the very same crime.

Heard the learned counsel appearing for the applicants. By taking going through the case diary, it is argued that the FIR lodged by the alleged eye witness is containing embellishment for roping in as many persons as possible



because averments therein are not in tune with the medical evidence adduced on record. It is further argued that prima facie no offence punishable under Section 302 of the IPC is made out and the circumstances are not reflecting common object harboured by the applicants. It is further argued that version of eye witnesses, Umesh Paswan and Sunil Paswan is not in tune with that of the first informant. Therefore, it is urged that considering the period of pre-trial detention as well as the nature of evidence available against them, the applicants deserves to be released on bail.

As against this, the learned APP by drawing attention to the statements of Ashok Rai, Sunil Rai, Sanjay Rai, Ramnath Rai, Siyaram Rai, Umesh Paswan and Sunil Paswan argued that all these witnesses have supported the case of prosecution and there is prima facie evidence of commission of the offence punishable under Section 302 of the IPC. The learned counsel for the first informant argued that after arrest of main accused, Mantu Rai, all the applicants have attacked police station to secure release of Mantu Rai and this conduct disentitles them to claim liberty in the instant case.

I have considered the submissions so advanced and also perused the counter affidavit as well as charge sheet and



case diary.

It is the prosecution case reflected from the FIR lodged by Subodh Rai, who happens to be son of Bam Bahadur Rai (since deceased) that at about 5:30 P.M. of 07.07.2021, he along with his father Bam Bahadur (since deceased) have been to their field for looking after the progress of the crop. At that time, with an intention to take possession of their land, work of filling of soil at their field was going on. The first informant further alleged that when he as well as his father, Bam Bahadur Rai protested, main accused Mantu Rai who happens to be the husband of Mukhiya of Panchayat extorted his associates to assault and thereupon present applicants along with other accused persons assaulted the first informant and his father Bam Bahadur Rai by means of wooden sticks, illicit arms. When Bam Bahadur Rai was injured, all accused persons continued to the assault by means of fist and click blows. It is further averred that Bam Bahadur Rai succumb to the injury sustained by him at the PMCH, Fatehpur.

Witnesss Ashok Rai, who happens to be son of the deceased as well as brother of the first informant, Sunil Rai, who happens to be son of the first informant, Sanjay Rai, Ram Nath Rai as well s Siyaram Rai reiterated the averments made



by the first informant, however, other witnesses examined by the prosecution namely Umesh Paswan and Sunil Paswan came up with a version that the water pipeline at the spot was broken and the road was damaged. By seeking contribution from the villagers, the work of repair of that road by filling the earth was going on and at that time, Bam Bahadur Rai and his son protested and the quarrel issued in which the incident in question took place.

These two conflicting versions reflecting from the record of investigation gives another dimension to the case and it is seen from the record of the investigation that weapons attributed to the applicants were wooden sticks and illicit arms.

On this backdrop, if the post-mortem report is perused, then it is seen that the deceased had suffered only three injuries and precisely stated those are :-

- (1) Bruise on size 2"x1" lateral to right eye
- (2) Bruise of size 1"x1/2" over left zygomatic region of face.
- (2) Bruise on right lower para vertebral region about 1"x1" bleeding through left nostril present.

Perusal of the FIR is not even reflecting any internal damage or fracture injury to the deceased. However, it is seen there was haemorrhage of brain. Though illicit arms were



attributed, not a single injury on the deceased can be attributed to either sharp aged weapon or fire arms.

It is seen from the prosecution case that about 25 persons assaulted the deceased Bam Bahadur Rai. However, he had suffered only three injuries. Prima facie, it is seen that no sharp aged weapon was used in the incident. The question whether the offences falls under part 1 or part 2 of Section 304 of the IPC or whether it travels to one punishable under Section 302 of the IPC is question to be answered in the trial. However, the assault seems to be by means of fists and kicks blows as well as wooden sticks. Whether that was with the requisites intention or not will have to be adjudicated after considering the evidence of the prosecution.

It is averred that the applicants have attacked the police station to get release of main accused Mantu but for that purpose, another offence is registered by the police.

Considering the totality of circumstances and nature of evidence available against the applicants, the applicants can be directed to be released on bail by imposing stringent conditions and, therefore, the order :-

- i. The application is allowed.
- ii. The applicant/accused in Crime No. 61 of 2021,



registered with Jurawanpur Police Station for the offence punishable under Sections 147, 148, 149, 341, 323, 302, 120B, 504, 506 of IPC, be released on bail on executing P.R. bond of Rs.15,000/- Rupees Fifteen Thousand) each on furnishing surety of the like amount each to the satisfaction of the trial Court with the following conditions :-

(I) The applicants/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against them so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicants/accused shall cooperate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, their bail bond shall be liable to be forfeited by the Court below.

(III) The applicants/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicants should not repeat commission of similar offence in future and if they are found to be involved in commission of similar offence, the State is at liberty to apply for



cancellation of bail granted to the applicants in the instant case.

The applicants to remove all office objections
forthwith and Registry to issue bail-writ as per this order only
after removal of office objections by the appellants/accused.

(A. M. Badar, J)

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