

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69677 of 2021

Arising Out of PS. Case No.-133 Year-2019 Thana- PARAIYA District- Gaya

Nawal Yadav, Son of Chandar Yadav, Resident of Village- Sikandarpur, P.S.-
Paraiya, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 65724 of 2021

Arising Out of PS. Case No.-133 Year-2019 Thana- PARAIYA District- Gaya

Satyendra Yadav, S/o Chanesar Yadav Resident of Village- Sikandarpur,
P.O.- Dharamshala, P.S.- Paraiya, Districto Gaya

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 3911 of 2022

Arising Out of PS. Case No.-133 Year-2019 Thana- PARAIYA District- Gaya

Kapil Yadav, Son of Balchand Yadav Resident of Village - Sikandarpur, P.s.-
Paraiya, Distt.- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 29388 of 2022

Arising Out of PS. Case No.-133 Year-2019 Thana- PARAIYA District- Gaya

Chandar Yadav, Son of Mohan Yadav Resident of Village - Sikandarpur, P.s.-
Paraiya, Distt.- Gaya.

... .. Petitioner/s

Versus

The State of Bihar



... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 69677 of 2021)

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate
Mr.Arvind Kumar, Advocate

For the Opposite Party/s : Mr.Mukesh Kumar Singh, APP

(In CRIMINAL MISCELLANEOUS No. 65724 of 2021)

For the Petitioner/s : Mr.Rama Kant Singh, Advocate

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

(In CRIMINAL MISCELLANEOUS No. 3911 of 2022)

For the Petitioner/s : Mr.Shivendra Prasad, Advocate

For the Opposite Party/s : Mr.Rajiv Nayan, APP

(In CRIMINAL MISCELLANEOUS No. 29388 of 2022)

For the Petitioner/s : Mr.Arvind Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 28-09-2022 Since all the applications arise out of Paraiya P.S. Case No. 133 of 2019, as such, they have been taken together and are being disposed of by this common order.

Heard learned counsels 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 Paraiya P.S. Case No.133 of 2019, registered for the alleged offence under Sections 302, 307 and 34 of the Indian Penal Code.

As per the prosecution case, the petitioners and other two co-accused persons put a *gamchha* in the neck of the husband of the informant and hanged him from a tree causing his death.



The occurrence took place in the background of dispute between the parties over two pending cases between them.

It has been submitted on behalf of the petitioners that the petitioners have been falsely implicated in this case and the fact is apparent from the FIR. The informant is not an eye witness to the occurrence and this fact is apparent in the FIR. Her presence at the time of occurrence as she has stated in her written report is not believable since a lady would not go to a secluded place in the dead of night. Then she claims to have identified the accused persons in the torch light, but the said torch is not brought on record. So it was not possible to properly identify the assailants and the identification of the accused persons including the petitioners is very much doubtful. Further, an occurrence of this nature had taken place and no other independent witness has been cited which also creates doubt over the prosecution case. If the petitioners were bent upon killing the husband of the informant, they might have made preparation for the same, but there is no allegation that the petitioners were armed or even that they were carrying a simple stick. The hanging is stated to have taken place by a *gamchha* which belonged to the deceased himself. It is also not believable that the husband of the informant was being hanged and she remained a silent spectator. No specific allegation has been levelled against any of the petitioners and the allegations are



mostly omnibus against the petitioners and other co-accused persons. The post mortem report shows cause of death to be asphyxia due to hanging and it shows the husband of the informant committed suicide and the petitioners have been falsely implicated in this case. It has been further submitted that the deceased committed suicide due to quarrelsome behaviour of the informant and the informant has falsely implicated all these petitioners due to previous litigation and dispute which is admitted in the FIR itself. The petitioner Nawal Yadav is in custody since 14.01.2021, the petitioner Satyendra Yadav is in custody since 22.11.2019, the petitioner Kapil Yadav is in custody since 15.09.2021 and the petitioner Chandar Yadav is in custody since 14.12.2021. Charge sheet has been submitted.

Learned APP opposes the prayer for bail submitting that the informant has specifically named this petitioner along with other co-accused persons and the death has been caused due to hanging.

Perused the records.

Having regard to the facts and circumstances and submissions made hereinabove and considering the fact about possibility of false implication and further considering the period of custody of the petitioners and submission of charge sheet, the petitioners 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 Additional Chief Judicial Magistrate-III, Gaya, in connection with Paraiya P.S. Case No. 133 of 2019, 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 close relative of the petitioners.
- (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 bond of the petitioners will be liable to be cancelled by the court concerned.

V.K.Pandey/-

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(Arun Kumar Jha, J)

