

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65266 of 2021**

Arising Out of PS. Case No.-108 Year-2021 Thana- CHAND District- Kaimur (Bhabua)

1. GUNJA DEVI W/o Amar Ram Resident of Village- Jigina, P.S.- Chand, District- Kaimur.
2. AMAR RAM Son of Sampat Ram Resident of Village- Jigina, P.S.- Chand, District- Kaimur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 67458 of 2021

Arising Out of PS. Case No.-108 Year-2021 Thana- CHAND District- Kaimur (Bhabua)

1. MANOJ RAM S/o Sampat Ram Resident of Village- Jigna, P.S.- Chand, District- Kaimur.
2. Ram Niwas Ram Son of Sampat Ram Resident of Village- Jigna, P.S.- Chand, District- Kaimur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 65266 of 2021)

For the Petitioner/s : Mr. Rajesh Kumar Pathak, Advocate.

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

(In CRIMINAL MISCELLANEOUS No. 67458 of 2021)

For the Petitioner/s : Mr. Ranjay Kumar Patel, Advocate.

For the Opposite Party/s : Mr. Ramchandra Swahni, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 10-10-2022 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. Rajesh Kumar Pathak and Mr. Ranjay



Kumar Patel, learned counsels for the petitioners as well as learned Additional Public Prosecutor for the State.

With the consent of the learned counsels for 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 Chand P. S. Case No. 108 of 2021 giving rise to Sessions Trial Case No. 278 of 2021 registered for the offences punishable under Sections 302, 201 read with 34 of the Indian Penal Code.

The prosecution case is based on *fardbayan* of the informant alleging therein that the son of the informant, namely, Bablu Thakur had affair with Gunja Devi for the last four years after the death of the wife of his son. It is further alleged that on the allurement given by Gunja Devi, the son of the informant arranged money from several persons and got her house built and purchased ornaments for her, however, on account of some dispute, later on, the relationship of both the deceased and Gunja Devi were bittered and the son of the informant started demanding money and ornaments on which she denied. It is also alleged that on 01.07.2021, Gunja Devi had called her son at her



house, on pretext to return the money and on the next date his dead body was found in the Badhar of village. The informant suspected that her son was killed by all the accused persons and his dead body was thrown in the field.

Learned counsels appearing on behalf of the petitioners submitted that from the tenor of the F.I.R., it would be evident that there is no eye-witness to the alleged occurrence and save and except the suspicion allegedly made by the informant, there is no material on record suggesting the complicity of the petitioners in the present crime. It is also submitted that even during the course of investigation no witness has come forward to state that the deceased was lastly seen in the house of the petitioners, much less even in the village of the petitioners. Learned counsels for the petitioners further drawn the attention of the court towards the confessional statement of Amar Ram, who happens to be husband of Gunja Devi wherein he confessed his complicity along with other co-accused persons in committing the murder of the deceased by administering sulphas, however, during the course of post mortem, after having found no external injuries over the body of the deceased, the viscera was sent to the Forensic Science Laboratory. From the viscera report, it appears that no Metallic,



Alkaloidal Glycosidal, Pesticidal and Volatile poison could be detected in the contents of plastic jar. Hence, even the case of prosecution, which was based on the confessional statement falls to the ground. It is next submitted that all the petitioners are having fair antecedent and they are in custody for more than one year and now the charges have already been framed and they are ready to give undertaking that they will fully cooperate in the trial till its conclusion.

On the other hand, learned APP for the State oppose the bail applications and submits that the specific allegation has been levelled against all the petitioners that they by hatching conspiracy committed the murder of the deceased and there are materials on record suggesting the complicity of the petitioners.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that there is neither any eye-witness to the alleged occurrence nor the case of the prosecution corroborated by the post mortem report as well as viscera report and moreover, the petitioners having fair antecedent, are in custody for more than one year and there is no cogent material suggesting the complicity of the petitioners, let the petitioners, above named, be released on bail on furnishing



bail bonds of Rs. 10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge- III, Bhabua, Kaimur in connection with Chand P. S. Case No. 108 of 2021 giving rise to Sessions Trial Case No. 278 of 2021, 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.

(Harish Kumar, J)

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