

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1888 of 2022

Arising Out of PS. Case No.-71 Year-2021 Thana- CHAINPUR District- Kaimur (Bhabua)

1. Munna Mushahar S/o Nagina Mushahar R/o Village- Arail, P.S. Chainpur, District- Kaimur at Bhabua.
2. Mahendra Mushahar S/o Ramnath Mushahar R/o Village- Arail, P.S.- Chainpur, District- Kaimur at Bhabua.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Tribhuwan Narayan
For the Opposite Party/s	:	Mr. Madhura Nand Jha
For the Informant	:	Mr. Murlidhar

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 24-05-2022 Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel for the informant.

Let the defect(s), if any, be removed within a period of four weeks after complete start of the physical Court.

The petitioners seek bail in a case registered for the offences punishable under Sections 341, 323, 379, 504, 506 and 34 of the Indian Penal Code.

Learned counsel for the petitioners submits that the petitioners are in custody since 27.07.2021, charge-sheet has been submitted, petitioner no.1 is a person with clean antecedent and petitioner no.2 is a person with antecedent of one case.

Learned counsel for the petitioners submits that the



informant alleges that some armed miscreants came and took away 80 sheeps of the informant in a pick-up van and the role of one Narayan Mushahar was suspected behind the occurrence.

Learned counsel for the petitioners submits that the name of petitioner no.1 transpired in the confessional statement of Birbal Mushahar and petitioner no.2 and the name of petitioner no.2 transpired based on tower location during the course of investigation.

Learned counsel for the petitioner submits that as far as confessional statement of co-accused is concerned, that has no evidentiary value in the eye of law. It is next submitted that based on tower location, it cannot be alleged with certainty that the petitioners had participated in the occurrence, no doubt is may create suspicion which is subject to the case be finally adjudicated by a Court of competent jurisdiction in trial. It is further submitted that the petitioners were put on T. I. Parade but they were not identified by the informant, which also *prima facie* goes to demonstrate that the petitioners were not present at the place of occurrence when the offence was committed.

Learned A.P.P. for the State and learned counsel for the informant vehemently opposes the prayer for regular bail of the petitioners but are not able to meet the submission made by



learned counsel for the petitioners that the petitioners were not identified in the T.I. Parade by the informant.

At this stage, learned counsel for the petitioners submits that co-accused Shabbi Haider, Birbal Mushahar, Lagan Mushahar, Wazir Mushahar, Kalam Ahmad and Mahfuz Alam have been granted bail by order dated 25.04.2022 in Cr. Misc. No. 67489 of 2021, Cr. Misc. No. 66182 of 2021, Cr. Misc. No. 68545 of 2021 and Cr. Misc. No. 69433 of 2021.

Considering the fact that the petitioners are in custody since 27.07.2021, charge-sheet has been submitted and the petitioner were not identified by the informant in the T.I. Parade, the petitioners, above named, are directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Chainpur P.S. Case No. 71 of 2021.

(Satyavrat Verma, J)

Ankit/-

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