

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1324 of 2022

Arising Out of PS. Case No.-243 Year-2021 Thana- BARAUNI District- Begusarai

Babloo Kumar, S/o Ram Pravesh Singh, R/o village- Simariya- 01, P.S.-
Barauni, District- Begusarai

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 16203 of 2022

Arising Out of PS. Case No.-243 Year-2021 Thana- BARAUNI District- Begusarai

Bhushan Kumar, Son of Shri Manoj Rai, Resident of Village - Simaria, P.S. -
Barauni, District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 1324 of 2022)

For the Petitioner/s : Mr. Vikramdeo Singh, Advocate
Mr.Arjun Prasad, Advocate
Mr. Ashok Kumar, Advocate

For the State : Dr. (Mrs.) Indihar Kumari, APP

For the Informant : Mr. Shubhesh Pandey, Advocate

(In CRIMINAL MISCELLANEOUS No. 16203 of 2022)

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

For the State : Dr.Mrityunjaya Kr.Gautam, APP

For the Informant : Mr. Shubhesh Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 19-10-2022 As prayed, learned counsel appearing on behalf of the

petitioner Bhushan Kumar (Cr. Misc. No.16203 of 2022) is

permitted to make necessary correction in paragraph 1 of the

bail petition in course of the day.

Since both the applications arise out of Barauni



(Chakiya OP) P.S. Case No. 243 of 2021, as such, they have been taken up together and are being disposed of by this common order.

Heard learned counsels for the petitioners, learned APPs for the State and learned counsel for the Informant.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks.

In the present case, the petitioners seek bail in connection with Barauni (Chakiya OP) P.S. Case No.243 of 2021, registered for the alleged offence under Sections 386, 302, 379/34 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, while the son of the informant was returning home, he was surrounded by the petitioners along with other co-accused persons who told him that when the petitioner Bhushan Kumar sent a message demanding Rs. 25 lacs, why the said amount was not paid. When the son of the informant refused to make the payment, the petitioner Babloo Kumar ordered for shooting him and the co-accused Mukesh Kumar fired the shot at the head of the son of the informant. The petitioners and other co-accused persons opened indiscriminate firing by their illegal firearms. The



persons from nearby started assembling and the miscreants fled away from the spot. The co-accused Saurabh Kumar snatched a gold chain from the neck of the son of the informant.

It has been submitted on behalf of the petitioners that the petitioners are innocent and have been falsely implicated in this case. The petitioners and the informant are co-villagers and admittedly there is enmity between them. The informant is not the eye witness and the written report is afterthought and has been given after due deliberation. The inquest report shows the same was prepared at 11.40 A.M. on 14.06.2021, whereas the written report of the FIR was given on 15.06.2021 at 4.00 A.M. The informant is not the eye witness on the inquest report. It has further been submitted on behalf of the petitioners that the allegation against the petitioner Babloo Kumar is that he is merely an order giver and except for that no specific allegation has been levelled against this petitioner. It has further been submitted on behalf of the petitioner Bhushan Kumar that from the statement of the witnesses recorded during investigation in paragraphs 9, 10, 11, 12 & 13 of the case diary, it appears that the said petitioner was not even present at the place of occurrence. Furthermore, there is nothing on record regarding the time when the demand for extortion money was made. The



petitioners are having clean antecedent. The petitioner Babloo Kumar is in custody since 21.08.2021 whereas the petitioner Bhushan Kumar is in custody since 28.07.2021. The charge sheet has been submitted in this case. The co-accused persons have been granted bail by different Coordinate Benches of this Court vide order dated 31.05.2022 passed in Cr. Misc. No. 65265 of 2021 and the order dated 04.07.2022 passed in Cr. Misc. No. 5672 of 2022, respectively.

Learned APP as well as learned counsel appearing on behalf of the informant vehemently oppose the prayer for bail. The learned counsel for the informant submits that the son of the informant was brutally murdered and five bullets wound were found on the body and four bullets were extracted. He further submits that the demand of extortion money was made on the same day and this fact has been mentioned in the FIR itself.

Perused the records.

Having regard to the facts and circumstances of the case and submissions made hereinabove and considering the fact that only allegation, which appears from the record, against the petitioner Babloo Kumar is that he is merely an order giver and the specific allegation of opening fire is against the co-



accused Mukesh Kumar and doubt over presence of the petitioner Bhushan Kumar at the place of occurrence and further considering the period of custody of the petitioners and submission of charge sheet along with their clean antecedent, 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 5th Additional Sessions Judge, Begusarai, in connection with Sessions Trial No. 81 of 2022 arising out of Barauni (Chakiya OP) P.S. Case No. 243 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 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.
- (iv) The learned trial court shall verify the criminal antecedent of the petitioners and in



case, at any stage, it is found that the petitioners have concealed their criminal antecedent, the learned trial court shall take immediate steps for cancelling the bail bonds of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for this purpose or in the name of verification.

(Arun Kumar Jha, J)

V.K.Pandey/-

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