

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1169 of 2023

Arising Out of PS. Case No.-265 Year-2022 Thana- BAISI District- Purnia

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LALTU @ MOJIBUR RAHMAN S/o Late Marchani R/o Village- Tarabari,
P.O.- Asja Mobaiya, P.S.- Baisi, District- Purnia.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 3809 of 2023

Arising Out of PS. Case No.-265 Year-2022 Thana- BAISI District- Purnia

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MD. AEJAZ ANJUM @ EZAZ ANJUM Son of Late Abdul Quddus Resident
of Village- Terabari, P.S.- Baisi, District- Purnia

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 1169 of 2023)

For the Petitioner/s : Mr. Devashish Giri

For the Opposite Party/s : Mr. Sanjay Kumar Singh

(In CRIMINAL MISCELLANEOUS No. 3809 of 2023)

For the Petitioner/s : Mr. Devashish Giri

For the Opposite Party/s : Mr. Ram Sevak Choudhary

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 17-05-2023

CRIMINAL MISCELLANEOUS No.1169 of 2023

Heard learned senior counsel for the petitioner and
learned senior counsel for the informant, Ms. Nivedita Nirvikar.

The petitioner seeks bail in a case registered for the
offences punishable under Sections 302, 120B, 379 and 34 of
the Indian Penal Code.



Learned senior counsel for the petitioner, at the outset, submits that the easiest way to deal with this bail application is to reject it at the outset in the nature of allegations as alleged in the FIR but then that would amount to travesty of justice as liberty is a fundamental right enshrined under Article 21 of the Constitution of India and liberty of a person cannot be fettered except in accordance with the procedure as established by law.

Learned senior counsel next submits that what is not disputed, rather, stands admitted even by the learned counsel for the informant is that informant is not an eye-witness to the occurrence. It is next submitted that in this background, the facts of the case be appreciated and the Court should not be persuaded to reject the bail in a mechanical manner considering that it is a case of double murder.

Learned senior counsel submits that the informant alleges that on 28.06.2022, at about 6.00 pm, Md. Sahbaz Alam and Munazir were taken by Sayyed and Mudassir in pursuance of a conspiracy to kill them, it is next alleged that both were taken on the pretext of Panchayati to Malitola where from before Mukhiya Ezaz Anjum (petitioner of Cr. Misc. No. 3809 of 2023), Sarpanch Saukat (petitioner of Cr. Misc. No. 5112 of 2023), Chattu Hazi, Hasnain Jahangir, Sayyed, Laltu (petitioner)



Jafar and Mudassir (petitioner in Cr. Misc. No. 3192 of 2023) were present, it is next alleged that the accused were variously armed, it is further alleged that the moment Md. Sahbaz Alam and Munazir reached the place of occurrence, the accused persons started assaulting them, it is next alleged that Ezaz Anjum assaulted by an iron rod on head of Md. Sahbaz Alam causing injury, Saukat assaulted on head by sword, thereafter, Jahangir assaulted with an iron rod on head, thereafter, Arab and Sayyed, with knife and sword assaulted in his stomach and eyes and, thereafter, the named accused persons took Munazir to other side and started assaulting him by sharp edged weapon, further, Zaki gave orders to kill him on which the named accused persons at serial 12 to 17 in the accused column of the FIR, assaulted on his head and chest by sword, thereafter, it is alleged that Hasnain, Majid, Nawab were holding and Safdar and Akil were assaulting on his private part and Anjum with an iron rod assaulted on his head causing injury, thereafter, Sadik and Jakki strangled and stabbed him by knife on his chest.

Learned senior counsel submits that from perusal of the allegations as alleged in the FIR, it would manifest that the informant alleges that her husband along with one other person had accompanied Sayyed and Mudassir but thereafter, the



informant does not even remotely suggest that she had followed them. It is next submitted that the petitioner have been falsely implicated in the present case, it is submitted that when the informant admittedly is not an eye-witness to the occurrence then how she, with such precision, has alleged the allegation that who assaulted and with what weapon and where which creates doubt with regard to the veracity of the allegations as alleged, when it is not in dispute that two innocent lives have been done away with.

Learned senior counsel next submits that the date of occurrence is 28.06.2022 at 6.00 pm, thereafter, inquest report was prepared on 28.06.2022 at 10.10 pm but till then the name of the petitioner along with other accused persons did not figure, thereafter, post mortem report was prepared at 8.10 am on 29.06.2022 but till then also, the FIR was not instituted nor the informant who was accompanying the dead bodies had disclosed to anyone that the occurrence has been committed by the named accused persons, it is next submitted that, thereafter, a written typed FIR was instituted at 03.15 pm on 29.06.2022.

Learned senior counsel thus submits that it absolutely does not stand to reason that if the wife was an eye witness to the occurrence, why the said fact was not disclosed at the



earliest or at the time when the inquest post mortem report was being written. It is also submitted that a typed FIR gives an impression that the FIR was instituted after due consultation and deliberation by way of afterthought. It is further submitted that from perusal of the allegations as alleged in the FIR, it would manifest that the same records that the accused persons mentioned at column 17 to 22 in the FIR assaulted in such and such manner which appears improbable, as it is humanly not possible or probable to recollect the details with such precision which also creates doubt that someone was behind the informant and took advantage of the situation by implicating the petitioner, as a typed FIR containing allegations with precision was alleged.

Learned senior counsel next submits that if what has been alleged is true and if the informant would have been an eye-witness to the occurrence then her first normal reaction would have been to inform the family members or to rush to the police station or to save her husband but definitely she could not have been a mute spectator to the occurrence waiting to institute an FIR and that too a typed one. It is next submitted that the petitioner is fifty two years old and is a person with clean antecedent and all of a sudden he has been made a criminal by



the informant alleging that she saw him participating in the occurrence of murder.

Learned senior counsel further clarifies here that one case was instituted against the petitioner in the year 2010 in which he was acquitted in 2012, as such, it has been submitted that petitioner is a person with clean antecedent. Learned senior counsel next submits that how period of incarceration of an accused be compensated if he is acquitted of charges after prolonged trial without bail and in the event if bail is granted and the accused is convicted, he will serve the sentence, this strikes the Court.

Learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner but are not in a position to rebut the submissions of the learned senior for the petitioner that the informant is not an eye-witness to the occurrence and the precision with which she has alleged the allegation also create doubts.

Considering the submission, the provisional bail granted to the petitioner is hereby confirmed on the same terms and conditions.

However, in the event, if the learned Trial Court comes to a conclusion that the petitioner after his release is trying to delay



the trial in any manner, the learned Trial Court shall forthwith cancel his bail bonds and shall take all coercive steps to ensure that the petitioner is behind bars.

CRIMINAL MISCELLANEOUS No. 3809 of 2023

Heard learned senior counsel for the petitioner and learned A.P.P. for the State along with learned senior counsel for the informant, Ms. Nivedita Nirvikar.

The petitioner seeks bail in a case registered for the offences punishable under Sections 302, 120B, 379 and 34 of the Indian Penal Code.

Learned senior counsel for the petitioner submits that the petitioner is a person with clean antecedent and is in custody since 08.09.2022.

Learned senior counsel next submits that the facts of the case has been considered in detail in Cr. Misc. No. 1169 of 2023 (Laltu alias Mujibur Rahman Vs. The State of Bihar).

Considering the facts of the case and taking into consideration, the submission of the learned senior counsel for the petitioner in Cr. Misc. No. 1169 of 2023, let the petitioner above named be released on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the



like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Baisi P.S. Case No. 265 of 2022.

However, in the event, if the learned Trial Court comes to a conclusion that the petitioner after his release is trying to delay the trial in any manner, the learned Trial Court shall forthwith cancel his bail bonds and shall take all coercive steps to ensure that the petitioner is behind bars.

(Satyavrat Verma, J)

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