

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26049 of 2023

Arising Out of PS. Case No.-375 Year-2022 Thana- PIRPAINTI District- Bhagalpur

1. SAURAV SINGH @ RAJA BABU Son of Late Akhilesh Singh @ Late Akhileshwar Singh Resident of village - Parsurampur, P.S. - Pirpainty, Distt. - Bhagalpur
2. GAURAV SINGH @ GOLU Son of Late Akhilesh Singh @ Late Akhileshwar Singh Resident of village - Parsurampur, P.S. - Pirpainty, Distt. - Bhagalpur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 29551 of 2023

Arising Out of PS. Case No.-375 Year-2022 Thana- PIRPAINTI District- Bhagalpur

MUKESH KUMAR @ MUKESH KUMAR SINGH s/o RAMJEE SINGH
VILLAGE DAULATPUR P.S. ISHIPUR DISTRICT BHAGALPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 26049 of 2023)

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Adv.
Mr. Dr. Manoj Kumar, Adv.

For the Opposite Party/s : Mr. Madhura Nand Jha, APP

(In CRIMINAL MISCELLANEOUS No. 29551 of 2023)

For the Petitioner/s : Mr. Sourendra Pandey, Adv.

For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP

For the Informant : Mr. Ranjan Kumar Jha, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

7 20-09-2023 Heard Mr. Krishna Prasad Singh, learned senior

counsel for the petitioners in Cr. Misc. No. 26049 of 2023 and Mr.

Sourender Pandey, learned counsel for the petitioner in Cr. Misc.

No. 29551 of 2023 informant as well as learned A.P.P. for the



State along with learned counsel for the informant.

The petitioners seek bail in connection with Pirpainty P.S. Case No. 375 of 2022 registered for the offence under Sections 147, 148, 149, 120B, and 302 of the Indian Penal Code and Section 27 of the Arms Act.

The petitioners are alleged to have committed murder of brother and nephew of the informant by inflicting gun shot injuries after hatching a conspiracy.

Learned senior counsel appearing for the petitioners submits that the petitioners are innocent and have falsely been implicated in this case due to previous land dispute between the parties. He further submits that the informant is not the eye witness to the alleged occurrence and even the witness, Nitish Kumar, tractor driver, who was present at the place of occurrence does not disclose the name of the petitioners rather he has merely stated that the petitioner Mukesh Kumar @ Mukesh Singh along with two other accused persons started firing upon the victim. He further submits that the present case is a counter blast of Pirpainti P.S. Case No. 43 of 2020 filed by the co-accused, Subhamdeo Singh and the family members of the petitioners against the informant and others. He further submits that there is general and omnibus allegation against the petitioners and no specific allegation of overt act or allegation of firing is attributed to the petitioners of Cr. Misc. No. 26049 of 2023 and they are



languishing in judicial custody since 07.02.2023 without no fault.

So far as petitioner of Cr. Misc. No. 29551 of 2023 is concerned, it is contended on his behalf that the petitioner, Mukesh Kumar @ Mukesh Kumar Singh, has not been named in the F.I.R. however, his name has been dragged in this case at the instance of father of the deceased during course of investigation. It is further contended that the petitioner is resident of another village and he has no concern with the alleged occurrence and just to settle the personal score of father of the deceased, this petitioner has been implicated in this case claiming himself to be eye witness of the alleged occurrence. He further contends that even if the statement of father of the deceased and the tractor driver, namely, Nitish Kumar, is accepted, wherein they have stated that this petitioner along with other two have opened fire upon the victim, it would amount to a general and omnibus allegation as allegation of firing is attributed to three persons according to them and it could not be ascertained that as to whom firing the victim sustained gun shot injury causing their death. It is further contended that this petitioner is rotting in judicial custody since 21.11.2022.

Learned counsel for the informant as well as learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioners of both the cases and submits that in the case at hands two persons of same family have lost their life in other



words it could be said that it is case of double murder at the instance of the petitioners. He further submits that though there is minor contradiction between the contents of F.I.R. and the statements of the witnesses and eye witnesses but it is apparent from the face of the record that the petitioners herein have indiscriminately opened fire upon the victim causing their death on the spot. He further submits that though the petitioners, Saurav Singh @ Raja Babu and Gaurav Singh @ Golu are not stated to be the assailant, according to the F.I.R., but the allegation of intention is crystal clear from the F.I.R. itself and not only that one of the witness whose statement has been recorded in paragraph-13 of the case diary has clearly stated that these petitioners along with others have indiscriminately opened fire upon the deceased.

So far as petitioner, Mukesh Kumar @ Mukesh Kumar Singh is concerned, admittedly his name has not got any recital in the F.I.R., but his name transpired in this case during course of investigation and he is stated to be one of the main assailant according to the statement of father of the deceased and the truck driver who claimed to be the eye witness of the alleged occurrence and the statements of the eye witnesses cannot be ruled out. Therefore, contention of the learned counsel for this petitioner that he has not been named in the F.I.R. and his implication is nothing but an afterthought does not sustain as



because the F.I.R. only cannot be the encyclopedia of the entire case.

It is further contended by learned counsel for the informant and learned A.P.P. for the State that the postmortem report clearly reveals that one of the deceased has sustained four bullet injuries and another one has sustained one gun shot injury resulted into their death. It is further submitted that petitioner, Saurav Singh @ Raja Babu carries two more cases and petitioner, Gaurav Singh @ Golu carries one more case other than the present one and the petitioner, Mukesh Kumar @ Mukesh Kumar Singh bears clean antecedent according to paragraph-3 of the petitions.

A report with regard to present stage of the trial has been called for by this Court vide order dated 28.08.2023 which has been received and forms part of this application at Flag-P. On perusal thereof, it would reveal that out of ten charge-sheet witnesses, five have been examined which shows substantial progress of the trial.

Learned counsel appearing for the petitioners referring to the aforesaid report submits that the trial of this case is not likely to be concluded in near future.

Considering the facts and circumstances of the case and the rival submission of the parties and the nature of offence as well as the involvement of the petitioners in the alleged



offence of murder of two persons of the same family and also the substantial progress in the trial, this Court is not inclined to grant the privilege of bail to the petitioners. Accordingly, the prayer for bail of the petitioners is rejected.

However, learned trial court is directed to expedite the trial and try to conclude it at the earliest.

(Rajesh Kumar Verma, J)

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