

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30236 of 2022

Arising Out of PS. Case No.-206 Year-2021 Thana- MOHAMMADPUR District- Gopalganj

Abhay Kumar, Aged About 40 Years, Male, Son of Late Basudeo Thakur
Resident of Village- Deokuli , P.S- Mahammadpur , Dist- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 30350 of 2022

Arising Out of PS. Case No.-206 Year-2021 Thana- MOHAMMADPUR District- Gopalganj

Harikishore Pd. Singh @ Hari Prasad Singh, aged about 70 years, male, son
of Late Mahavir Thakur R/O- Vill- Deokuli, P.S.- Mohammadpur, Dist-
Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 33524 of 2022

Arising Out of PS. Case No.-206 Year-2021 Thana- MOHAMMADPUR District- Gopalganj

1. Sonu Kumar Singh, aged about 30 years, male S/o Hari Kishore Singh @
Hari Prasad Singh Resident of Village- Deokuli, P.S.- Mahammadpur,
District- Gopalganj.
2. Vivek Kumar, aged about 23 years, male, S/o Hari Kishore Singh @ Hari
Prasad Singh Resident of Village- Deokuli, P.S.- Mahammadpur, District-
Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 30236 of 2022)

For the Petitioner/s : Mr.Ajay Kr. Thakur with Mr. Raju Prasad,
Advocates

For the Opposite Party/s : Mr.Vinod Shanker Modi, APP

(In CRIMINAL MISCELLANEOUS No. 30350 of 2022)



For the Petitioner/s : Mr. Ajay Kr. Thakur with Mr. Raju Prasad,
Advocates
For the Opposite Party/s : Mr. Md. Ataur Rahman, APP
(In CRIMINAL MISCELLANEOUS No. 33524 of 2022)
For the Petitioner/s : Mr. Ajay Kr. Thakur with Mr. Raju Prasad,
Advocates
For the Opposite Party/s : Mr. Vinod Shanker Modi, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 12-01-2023 Heard learned counsel for the petitioners and learned Additional Public Prosecutor (*for brevity APP*) appearing for the State of Bihar.

Both these applications arise out of the same P.S. i.e., Mohammadpur P S Case No.206 of 2021, and as such, they are heard together and are being disposed of by this common order.

The petitioners seek bail in connection with Mohammadpur PS Case No.206 of 2021, registered for the offence punishable under Sections 341, 323, 379 and 302/34 of the Indian Penal Code.

As per allegation in the First Information Report (*for brevity 'FIR'*), the informant has alleged that her husband was called by co-accused, namely, Harikishore Prasad (petitioner of Cr. Misc. No. 30350 of 2022) at six in the evening. It is alleged that they have all consumed liquor together and the petitioners, including two female members of the house have together tied the informant's husband and beaten him. On hearing the hue and cry of her husband, the daughter of the informant has gone to the place of occurrence (next door) and she has also been assaulted by the petitioners. The informant's husband has been found to be injured and taken to the hospital by the informant for treatment, wherein, he has been referred to the Sadar hospital, Gopalganj. While the informant was preparing to take her husband to the hospital, at home, he has succumbed to the



injuries.

Learned counsel for the petitioners submits that from bare reading of the FIR, it is apparent that there is subsisting land dispute between the informant and the petitioners. The petitioner of Cr. Misc. No. 30350 of 2022, namely, Harikishore Pd. Singh @ Hari Prasad Singh is apparently, cousin of the deceased (agnate). The prosecution case is not corroborated by the material in the investigation. There is no external injury and the petitioners of Cr. Misc. Nos. 30236 of 2022 and 33524 of 2022, namely, Abhay Kumar, Sonu Kumar Singh and Vivek Kumar are in custody since 16/04/2022 and petitioner of Cr. Misc. No. 30350 of 2022, namely, Harikishore Pd. Singh @ Hari Prasad Singh is in custody since 08/03/2022. Petitioners have no criminal antecedents. Co-accused of this case, namely, Dipti Prabha @ Banti Devi and Sarswati Devi have been granted the privilege of anticipatory bail by a Co-ordinate Bench of this Court in Cr. Misc. Nos. 7375 of 2022 and 7940 of 2022 respectively. It is further submitted that the injury, which has been sustained by the victim, is internal, which is simple in nature, has been caused by fall or under other circumstances and the same has been made the basis of implicating the petitioners based on the subsisting land dispute.

Earlier, this Court had requisitioned the case diary, which has been received.

The learned APP's have opposed the prayer and referred to the material collected in the course of investigation. From the postmortem report, they are not in a position to point out that there was any trace of alcohol or external injury. There is one internal injury which has been found (lacerated injury on the liver lobe).



There is also no material to point out that the victim was taken for treatment as per allegation of the informant.

Considering the rival submissions, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioners' counsel. Prayer for bail of the petitioners is allowed.

Let the petitioners of these cases, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned ACJM 1st District Gopalganj/concerned Court in connection with Mohammadepur PS Case No. 206 of 2021, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioners who will give an affidavit giving genealogy as to how he is related with the petitioners. The bailor will also undertake to inform the Court if there is any change in the address of the petitioners.

(ii) That the petitioners will be well represented on each date and if they fail to do so on two consecutive dates, their bail bond will be liable to be cancelled.

This Court would expect that the petitioners' counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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