

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31730 of 2022

Arising Out of PS. Case No.-255 Year-2021 Thana- SHAHKUND District- Bhagalpur

Lakashman Mandal, Son of Late Tena Mandal, Resident of Milki Pairdominia
Mal (Panchrukhi), P.S. - Sahkund, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 31770 of 2022

Arising Out of PS. Case No.-255 Year-2021 Thana- SHAHKUND District- Bhagalpur

Gautam Mandal, Son of Sahdev Mandal, Resident of Village- Milki, P.S. -
Shahkund, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 36002 of 2022

Arising Out of PS. Case No.-255 Year-2021 Thana- SHAHKUND District- Bhagalpur

Anil Mandal, son of Late Rambilash Mandal, Resident of Village- Milki
Pardominiyamal, P.S.- Sahkund, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 31730 of 2022)
For the Petitioner/s : Mr. Indeshwari Prasad Mandal, Advocate
For the Opposite Party/s : Mr. Pramod Kumar Pandey, APP
(In CRIMINAL MISCELLANEOUS No. 31770 of 2022)
For the Petitioner/s : Mr. Amiya Kunal, Advocate
For the Opposite Party/s : Mr. Dilip Kumar No. 1, APP
(In CRIMINAL MISCELLANEOUS No. 36002 of 2022)
For the Petitioner/s : Mr. Anil Kumar Roy with
Mr. Shree Kant Pandey, Advocates
For the Opposite Party/s : Mr. Tarun Prasad Mandal, APP



CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 08-02-2023 Learned counsel for the petitioners are permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

 Heard learned counsel for the petitioners and learned Additional Public Prosecutors for the State.

 With the consent of the parties, all the matters are being heard together and disposed of by this common order.

 The petitioners seek regular bail, who are in custody in connection with Sessions Case No. 12 of 2022, arising out of Sahkund P.S. Case No.255 of 2021 registered for the offences punishable under Sections 302/34 of the Indian Penal Code.

 The prosecution case is based on the written report filed by the informant alleging therein that on 18.09.2021 at 3.00 AM her son went to attend toilet, but on way he was taken to Panchayat Bhawan by all the named accused persons, including the petitioners and after confining him in Panchayat Bhawan they started mercilessly beating. It is further alleged that after having come to know the informant and her family members went to the Panchayat Bhawan and asked to open the door but the accused persons did not open the door. Thereupon Sarpanch Suresh Mandal reached and asked the accused persons



to open the door. Later on, all the accused persons after opening the door fled away and her son was found in unconscious and thereafter he was taken to hospital, where he has been declared dead.

Learned counsels appearing on behalf of the petitioners submit that from the narration of the F.I.R. it is evident that the informant is not an eye witness to the occurrence and she herself stated that having come to know she reached to the place of occurrence. It is further submitted that in fact during the course of investigation it has come that the son of the informant was being beaten by the son of Sarpanch and, therefore, later on, Sarpanch Suresh Mandal has also been made accused in this case. It is next submitted that even for the sake of argument the occurrence has taken place in a confined place, hence it is very difficult to allege that on whose assault the deceased has succumbed to the injuries. It is also submitted that one of the co-accused persons, namely, Naresh Mandal, having identical allegation, has been allowed the privilege of bail by a learned coordinate Bench of this Court in Cr. Misc. No. 33650 of 2022 vide order dated 16.01.2023, the copy of which has been produced before this Court and the same has been taken on record. It is lastly submitted that all the petitioners having fair



antecedent and they are in custody for a period of more than a year and moreover the charges have already been framed and they are ready to give undertaking that they will fully cooperate in the trial.

On the other hand learned APPs for the State in all the cases oppose the bail application and submits that allegedly the deceased was confined in a room where all the accused persons were present and found indulge in beating the deceased, hence their complicity cannot be denied.

Regard being had to the submissions made on behalf of the parties and considering the fact that there is no eye witness to the alleged occurrence and moreover one of the co-accused person, having identical allegation, has been allowed the privilege of bail and so far these petitioners are concerned having fair antecedent and are in custody for over a period of one year and the charges have already been framed, coupled with the undertaking given by the petitioners, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-X, Bhagalpur in connection with Sessions Case No. 12 of 2022, arising out of Sahkund P.S. Case No.255 of



2021, subject to the condition that one of the bailors will be the close relatives of the petitioners with further conditions which are as follows:-

(i) The petitioners will cooperate in conclusion of the trial.

(ii) They will remain present on each and every date of trial till disposal of the case.

(iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(v) The court below 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 court below shall take immediate step for cancelling the bail bond 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.

(Harish Kumar, J)

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