

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31373 of 2022

Arising Out of PS. Case No.-38 Year-2022 Thana- RAFIGANJ District- Aurangabad

Raju Bhuiyan Son of Saguni Bhuiyan R/O Village- Kajpa Tola Bhuiya Bigha,
P.S.- Rafiganj, District- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 32086 of 2022

Arising Out of PS. Case No.-38 Year-2022 Thana- RAFIGANJ District- Aurangabad

Anil Bhuiyan Son of Saguni Bhuiyan @ Bijay Bhuiyan Resident of Village -
Kajpa Tola Bhuiya Bigha, P.S. Rafiganj, District - Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 32281 of 2022

Arising Out of PS. Case No.-38 Year-2022 Thana- RAFIGANJ District- Aurangabad

Shankar Bhuiyan Son of Suresh Bhuiyan R/O Village- Kajpa Tola Bhuiya
Bigha, P.S.- Rafiganj, District- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 32298 of 2022

Arising Out of PS. Case No.-38 Year-2022 Thana- RAFIGANJ District- Aurangabad

Suresh Bhuiyan Son of Ram Vishun Bhuiyan Resident of Village - Kajpa Tola
Bhuiya Bigha, P.s.- Rafiganj, Distt.- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar



... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 32354 of 2022

Arising Out of PS. Case No.-38 Year-2022 Thana- RAFIGANJ District- Aurangabad

Jahkas Bhuiyan Son of Kishun Bhuiyan Resident of Village-Kajpa Tola
Bhuiya Bigha, P.S.-Rafiganj, District-Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 31373 of 2022)

For the Petitioner/s : Mr. Bindeshwar Prasad Singh, Advocate.

For the Opposite Party/s : Mr. Satyendra Narayan singh, APP.

(In CRIMINAL MISCELLANEOUS No. 32086 of 2022)

For the Petitioner/s : Mr. Bindeshwar Prasad Singh, Advocate.

For the Opposite Party/s : Mr. Satyendra Narayan singh, APP.

(In CRIMINAL MISCELLANEOUS No. 32281 of 2022)

For the Petitioner/s : Mr. Bindeshwar Prasad Singh, Advocate.

For the Opposite Party/s : Mr. Satyendra Narayan singh, APP.

(In CRIMINAL MISCELLANEOUS No. 32298 of 2022)

For the Petitioner/s : Mr. Bindeshwar Prasad Singh, Advocate.

For the Opposite Party/s : Mr. Satyendra Narayan singh, APP.

(In CRIMINAL MISCELLANEOUS No. 32354 of 2022)

For the Petitioner/s : Mr. Bindeshwar Prasad Singh, Advocate.

For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 01-02-2023 Learned counsel for the petitioners is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

With consent of the learned counsel for the petitioners
and learned APP for the State, all the matters are being heard
together and disposed of by a common order.

Heard Mr. Bindeshwar Prasad Singh, learned counsel



for the petitioner and learned APP for the State.

The petitioners seek regular bail, who are in custody in connection with Rafiganj P.S. Case No. 38 of 2022, registered for the offences punishable under Sections 302, 201, 120B/34 of the Indian Penal Code.

The prosecution case is based on the fardbayan of the informant alleging therein that on 01.02.2021, the informant received an informant from his friend that the dead body of his Nephew is lying on the bank of Simra Madar River. On the aforesaid information, the informant went there and identified the dead body of his Nephew, namely, Anup Sharma. It is further alleged that the informant came to know that on 27.01.2022, the deceased had gone to the liquor shop of Ashok Bhuiyan, where he was caused to consume liquor and thereafter, he was killed by electrocution and his dead body was thrown near the bank of river. He also submits that the information regarding the missing of his nephew was given to Fesar police station.

Learned counsel appearing on behalf of the petitioners submits that from the fardbayan of the informant, it is evident that the Nephew of the informant was missing since 27.01.2022, however, the present FIR has been instituted after a delay of



four days, however, no plausible explanation has been given for the delay in institution of the FIR, in as much as during the course of investigation the fact of giving information regarding missing of the nephew has not been corroborated by the Investigating Officer. He further submits that the FIR has been instituted against Ashok Bhuiyan and other unknown persons and all these petitioners are not named in the FIR, but subsequently, during the course of investigation name of the petitioners have transpired on the confessional statement of co-accused Ashok Bhuiyan and save and except the confessional statement, there is neither any material nor there is any eyewitness to the alleged occurrence and not even a suspicion has been raised against the petitioners. He also submits that during postmortem, no sign of injury has been found and even the cause of death could not be ascertained, hence viscera has been sent to Forensic Science Laboratory. He lastly submits that all the petitioners are having fair antecedent, and they are in custody for about one year and now the investigation of the crime is already complete.

On the other hand learned APP for the State vehemently oppose the bail applications and submits that during the course of investigation the statement of the wife of co-



accused Ashok Bhuiyan was recorded, and she categorically stated that on 27.01.2022 the deceased had come to her shop and he had misbehaved with her and as such *hulla* was raised, whereupon several persons were assembled and took away the deceased with them and the co-accused Ashok Bhuiyan disclosed the names of all the persons, including the petitioners and as such their complicity cannot be denied.

Regard being had to the submissions made on behalf of the parties and considering the delay in lodging of FIR as also the fact that the petitioners are not named in FIR and their name have transpired on the confessional statement of co-accused Ashok Bhuiyan and neither there is any eyewitness to the alleged occurrence nor any incriminating material has been recovered suggesting their complicity coupled with the fair antecedent of the petitioners and the period of custody, 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 Chief Judicial Magistrate, Aurangabad in connection with Rafiganj P.S. Case No. 38 of 2022, 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.

(Harish Kumar, J)

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