

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58602 of 2023

Arising Out of PS. Case No.-239 Year-2023 Thana- AKBARPUR District- Nawada

Mithlesh Kumar @ Mithlesh Chauhan Son of Vijay Chauhan R/o vill - Pach
Rukhi, Tola - Damodar Pur, P.S. - Akbarpur, Distt. - Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 58898 of 2023

Arising Out of PS. Case No.-239 Year-2023 Thana- AKBARPUR District- Nawada

Karu Chauhan Son of Late Natho Chauhan Village Pach Rukhi, Tola -
Damodar Pur, Ps - Akbarpur, District - Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 58602 of 2023)

For the Petitioner/s : Mr. Manisha Prakash, Advocate

For the Informant : Mr. Sunil Kumar, Advocate

For the State : Mr. Prem Kumar Jha, APP

(In CRIMINAL MISCELLANEOUS No. 58898 of 2023)

For the Petitioner/s : Mr. Manisha Prakash, Advocate

For the Informant : Mr. Sunil Kumar, Advocate

For the State : Mr. Parmeshwar Mehta, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 14-09-2023 Heard learned counsel for the petitioners, learned
counsel appearing on behalf of the Informant and learned APP
for the State.

2. Petitioners seek bail, who are in custody since
14.05.2023, in connection with Akbarpur P.S. Case No. 239 of
2023, F.I.R. dated 11.05.2023 registered for the offences



punishable under Sections 341. 323. 307, 302/34 and 354(B) of the Indian Penal Code.

3. Allegation against the petitioners is that they along with other co-accused persons have assaulted the informant's husband with *iron rod, lathi and danda* due to which he died.

4. Learned counsel for the petitioners submits that the petitioner namely Mithlesh Kumar @ Mithlesh Chauhan has clean antecedent and the petitioner namely Karu Chauhan carries one more case other than the present one and they have been falsely implicated in the present case and no such occurrence had taken place as alleged in the F.I.R. He further submits that before filing the present F.I.R. the wife of the petitioner has filed Sitamarhi P.S. Case No. 83 of 2023 against the deceased and from perusal of the postmortem report, it appears that body of the deceased was received on 11.05.2023 at 10:05 P.M. and from perusal of the F.I.R. it appears that after the postmortem report the present F.I.R. was instituted on 11.05.2023 at 11:45 P.M. He further submits that before lodging of the F.I.R. and at the time of preparing the postmortem report they have not disclosed the name of the petitioners and as an afterthought they have been falsely implicated the petitioners in



the present false and fabricated case. He further submits that the police after investigation submitted chargesheet against the petitioners and the petitioners are in custody since 14.05.2023.

5. The learned Additional Public Prosecutor for the State as well as learned counsel appearing on behalf of the Informant, on the other hand, vehemently opposed the prayer for bail of the petitioners and submits that there is direct and specific allegation against the petitioners that they have assaulted the deceased. Learned APP for the State fairly submits that there is no injury report which suggests that petitioners have assaulted the deceased.

6. Considering the facts and circumstances of the case, let the petitioners, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Nawada in connection with Akbarpur P.S. Case No. 239 of 2023, subject to the following conditions :-

(1) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without



sufficient reason, their bail bonds shall be cancelled by the Court below.

(2) If the petitioners tamper with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that 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 antecedents, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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