

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46909 of 2022

Arising Out of PS. Case No.-19 Year-2022 Thana- NOWKOTHI GARHPURA District-
Begusarai

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Raj Ballav Singh @ Neeraj Kumar Son Of Lebin Singh R/O Village-
Bindawan, P.S.- Nawkothi, District- Begusarai

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 40365 of 2022

Arising Out of PS. Case No.-19 Year-2022 Thana- NOWKOTHI GARHPURA District-
Begusarai

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Pumpum Kumar @ Abhinet Kumar @ Abhinet Son of Bauko Singh @
Awdhesh Singh @ Avdhesh Singh Resident of village - Vrindavan
(Bindraban), P.S.- Nowkothi, District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 46606 of 2022

Arising Out of PS. Case No.-19 Year-2022 Thana- NOWKOTHI GARHPURA District-
Begusarai

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Gopal Kumar S/o Ganga Singh Resident of Village- Bindawan, P.S.-
Nawkothi, District- Begusarai.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 58956 of 2022

Arising Out of PS. Case No.-19 Year-2022 Thana- NOWKOTHI GARHPURA District-
Begusarai

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Abhishek Kumar @ Bakhtar Singh Son Of Sitaram Singh R/O – Vill-
Bindawan, P.S. - Nowkothi, Dist- Begusarai.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 59222 of 2022

Arising Out of PS. Case No.-19 Year-2022 Thana- NOWKOTHI GARHPURA District- Begusarai

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Rambol Singh @ Kurra, Son of Labin Singh R/O Village- Bindawan, P.S- Nowkothi, District- Begusarai

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 46909 of 2022)

For the Petitioner/s : Mr. Arjun Prasad, Adv.

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

For the Informant/s : Mr. Alok Kumar Alok, Adv.

: Mr. Mritunjay Kumar, Adv.

(In CRIMINAL MISCELLANEOUS No. 40365 of 2022)

For the Petitioner/s : Mr. Sandip Kumar Gautam, Adv.

For the Opposite Party/s : Mr. Kumar Veerendra Narayan, APP.

For the Informant/s : Mr. Alok Kumar Alok, Adv.

: Mr. Mritunjay Kumar, Adv.

(In CRIMINAL MISCELLANEOUS No. 46606 of 2022)

For the Petitioner/s : Mr. Ajay Kumar Thakur, Sr. Adv.

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

For the Informant/s : Mr. Alok Kumar Alok, Adv.

: Mr. Mritunjay Kumar, Adv.

(In CRIMINAL MISCELLANEOUS No. 58956 of 2022)

For the Petitioner/s : Mr. Ajay Kumar Thakur, Sr. Adv.

For the Opposite Party/s : Mr. Syed Ehteshamuddin, APP.

For the Informant/s : Mr. Mritunjay Kumar, Adv.

(In CRIMINAL MISCELLANEOUS No. 59222 of 2022)

For the Petitioner/s : Mr. Ajay Kumar Thakur, Sr. Adv.

For the Opposite Party/s : Mr. Ram Sevak Choudhary, APP.

For the Informant/s : Mr. Mritunjay Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL ORDER

8 10-04-2023 As all these petitions have arisen out of same P.S.

Case, hence they are being decided by a common order.

Heard learned counsels for the petitioners and the

learned APPs for the State.

Petitioners seek regular bail in connection with Nowkothi P.S. Case No. 19 of 2022 dated 08.02.2022 registered for the offences punishable under Sections 337, 338, 307, 302 and 120(B) of the Indian Penal Code and Section 27 of Arms Act.

As per the prosecution, the informant alleged that these petitioners along with other named co-accused persons and 8-10 unknown persons carrying firearms, lathi and iron-rod abused and assaulted her, her husband and her children. It is further alleged that these miscreants fired on her husband and on protest these miscreant also fired on her son and daughter and brutally assaulted her husband, owing to which he succumbed to his injuries and informant's son and daughter sustained firearm injuries.

Learned senior counsel Mr. Ajay Kumar Thakur appearing for the petitioners namely Rambol Singh @ Kurra, Abhishek Kumar @ Bakhtar Singh and Gopal Kumar has submitted that in the instant matter, altogether 12 persons including the petitioners have been named and 8 to 10 unknown persons have been mentioned as being involved in the alleged commission of the occurrence and against the said petitioners

there is general and omnibus allegation and any specific role of any of the petitioners in the alleged crime has not been revealed by the informant. It has been further argued that the police got the information of the alleged crime on 08.02.2022 at 10:15 A.M. and thereafter reached at the place of occurrence and till that time, the names of the petitioners as well as other co-accused persons were not revealed by the prosecution party and even the FIR was not registered till that time and later on afterthought, the FIR was lodged by the informant on 08.02.2022 at 10:50 A.M. on the basis of Fardbeyan of the informant and during investigation the important witnesses, upon whom the police relied, made general and omnibus allegations against the petitioners and in the *post-mortem* report of the deceased, the cause of death has been opined as due to **Neurogenic** and **Hemorrhagic shock** as a result of injuries caused by heavy, hard and blunt object and as per the said opinion, the deceased did not sustain any fire-arm injury while as per the allegations made in the FIR the co-accused persons including the petitioners fired at the prosecution party including the deceased. It has been further argued that co-accused person Harinarayan Singh has been granted bail by a co-ordinate Bench of this Court vide order dated 23.09.2022 passed in Cr. Misc.

No. 36899/2022 and considering the privilege of bail to the said co-accused, two more co-accused persons namely Vibhay Kumar @ Vibhay Singh @ Jaywardhan Kumar and Manoj Singh have also been granted regular bail by this Bench and the case of all these petitioners is identical to co-accused persons namely Harinarayan Singh, Vibhay Kumar @ Vibhay Singh @ Jaywardhan Kumar and Manoj Singh.

Learned counsels Mr. Arjun Prasad and Mr. Sandip Kumar Gautam appearing for the petitioners Raj Ballav Singh @ Neeraj Kumar and Pumpum Kumar @ Abhinet Kumar @ Abhinet respectively have adopted all the arguments advanced by learned senior counsel Mr. Ajay Kumar Thakur in respect of above-mentioned petitioners.

Learned counsels Mr. Alok Kumar Alok and Mr. Mritunjay Kumar appearing for the informant has vehemently opposed the bail prayer of all these petitioners and submitted that the deceased, who happened to be the husband of the informant, was brutally murdered by these petitioners and co-accused persons and the co-accused namely Manoj Singh was granted bail mainly on considering the allegation concerned to said co-accused having not got corroboration from the *post-mortem* report of the deceased and other co-accused Vibhay

Kumar @ Vibhay Singh @ Jaywardhan Kumar was granted bail mainly on considering the privilege of bail to co-accused Harinarayan Singh, having been granted by another Bench of this Court and at that time, this Bench mainly relied on the submissions made by counsel appearing for the said co-accused namely Vibhay Kumar @ Vibhay Singh @ Jaywardhan Kumar and moreover at that time, case diary was also not available and in the present time the case diary is available before this Court, which shows that during investigation all the material witnesses have fully supported the allegations concerned to all the petitioners. It has been further argued that the co-accused persons including the petitioners committed the murder of the deceased in a very planned manner and the accused persons not only murdered the informant's husband but also fired at the prosecution party, owing to which the informant's daughter and son sustained fire-arm injury and the same gets corroboration from their injury reports.

Heard both the sides and perused the FIR as well as case diary of this case. In the instant matter, the informant's husband was brutally murdered and as per his *post-mortem* report, five injuries were found on his body and amongst them, one was found as "skull burst open and skull bones crushed and

brain matter drained out” and the said injury shows the seriousness and gravity of the occurrence and all the petitioners are named in the FIR, though against them there is no any specific allegation and any specific overt act of any of them has not been revealed in the FIR but all of them were alleged to be equipped with iron-rod, lathi, danda and bricks and according to the informant, the co-accused persons including the petitioners forcefully dragged the deceased from a room of *Aganbadi* center and thereafter started assaulting him by the said means. The nature of injuries found on the body of the deceased completely corroborates the allegation of having assaulted the deceased by the said means, though the deceased did not sustain fire-arm injury but the case diary goes to show that the informant’s son and daughter sustained fire-arm injuries which supports the allegation of causing injuries to the victims by means of fire-arms and as per the allegation, fire-arms were used by the accused persons at the time of commission of the alleged occurrence. Though the two co-accused persons namely Vibhay Kumar @ Vibhay Singh @ Jaywardhan Kumar and Manoj Singh have been granted bail by this Bench but while deciding their bail prayer, the case diary was not available and the prayer of co-accused Vibhay Kumar @ Vibhay Singh @ Jaywardhan

Kumar was considered mainly on the ground of the privilege of bail having been granted to co-accused Harinarayan Singh by a co-ordinate Bench of this Court and the prayer of co-accused Manoj Singh was allowed mainly considering the fact that the allegation of firing against the said co-accused in the FIR does not get corroboration from the *post-mortem* report of the deceased. Furthermore the alleged occurrence took place on 08.02.2022 in the morning at 8:30 A.M. and the FIR was lodged on the same day at 10:50 A.M., which shows naturality of the FIR and in my opinion, in such type of heinous offence which is committed in furtherance of common object, mainly on this ground that the main allegation is general and omnibus, one cannot claim as a right to be released on bail particularly when his trial is at initial stage. Considering all these facts, in my opinion, all the petitioners do not deserve to the privilege of bail at this stage. Accordingly, their prayer for bail stands rejected.

All the petitioners are given liberty to renew their bail prayer after six months, if no significant progress is made in their trial.

(Shailendra Singh, J)

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