

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69439 of 2022

Arising Out of PS. Case No.-588 Year-2021 Thana- CHAPRA MUFFASIL District- Saran

Rajesh Singh, S/o Late Ramjee Singh, R/o Village-Umdha, P.S.-Chhapra
Muffasil, Distt- Saran

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

With

CRIMINAL MISCELLANEOUS No. 75259 of 2022

Arising Out of PS. Case No.-588 Year-2021 Thana- CHAPRA MUFFASIL District- Saran

Vicky Kumar, S/o Rajesh Singh, Resident of village-Umdha, P.S.-Chhapra
Muffasil, District- Saran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 69439 of 2022)

For the Petitioner/s : Mr. Ansul, Advocate
Mr. Abhoy Kumar Kashyap, Advocate

For the Opposite Party/s : Dr. Mrityunjaya Kr. Gautam, APP

(In CRIMINAL MISCELLANEOUS No. 75259 of 2022)

For the Petitioner/s : Mr. Ansul, Advocate
Mr. Abhoy Kumar Kashyap, Advocate

For the Opposite Party/s : Mr. Ram Sumiran Rai, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 21-06-2023 Heard learned counsel for the respective petitioners
and learned Additional Public Prosecutor for the State.

The petitioners seek bail in connection with
Chhapra Muffasil P.S. Case No.588 of 2021 registered for the
offences punishable under Sections 341, 323, 324, 307 and 504
read with 34 of the Indian Penal Code but later on, section 302
was added in the FIR by the order of the court.



The allegation against the petitioners is to commit murder of brother of the informant along with other co-accused persons by causing bodily injuries using *lathi*, iron rod, sword etc. where occurrence arises due to non-payment of ransom money to co-accused Vicky Kumar by the deceased.

It is submitted by learned counsel appearing on behalf of the petitioners that the occurrence is free fight arises out of dispute relating to money transactions between the parties. It is submitted that both parties received injuries during the occurrence and for the same set of occurrence on same very date, a case was registered by Babita Singh wife of the petitioner, namely, Rajesh Singh, which has been registered as Saran Muffasil P.S. Case No.589 of 2022. It is stated thereof that the cause of injuries as received by deceased is explained in same very FIR where he received fatal injury out of an accidental collision with electric poles. It is also submitted that only single injury on frontal temporal region was noticed, which is appearing more convincing as per counter FIR. It is submitted that even from the narration of FIR, the allegation of physical assault as caused by petitioners is appearing very much general and omnibus. While travelling over the argument, learned counsel submitted that immediately after the occurrence, the



deceased Awakash Kumar as he was injured at that time and petitioners as injured admitted with Sadar Hospital on same point of time, where the matter was compromised for Rs.50,000/- and in furtherance of same, Rs.30,000/- was transferred to Account No.918310093818620. It is also submitted that as the occurrence is free fight where both parties received injuries, it can not be said that petitioners were under intention to cause death of brother of the informant. Learned counsel fairly conceded that though all prosecution witnesses examined in this case but still in view of the fact of this case to establish innocence certain defence witnesses are required to be examined and as such the conclusion of trial may take some time. While concluding argument, it is submitted that petitioners are men of clean antecedent where all prosecution witnesses have been examined and as such, there is no chance of tampering with the evidence.

The learned APP duly assisted by Mr. Pramod Ban Bihari Singh, learned counsel for the informant while opposing the prayer for bail submitted that petitioners actively participated in occurrence causing fatal injuries to brother of informant along with other co-accused persons. He fairly conceded that a counter case to this occurrence was lodged by



wife of petitioner Rajesh Kumar as submitted above. It is also submitted by learned counsel appearing on behalf of the informant that as prosecution witnesses already examined in this case, trial is likely to conclude in near future and, as such, consideration of bail petition to be deferred.

In view of the above-mentioned facts and circumstances and by taking note of fact that as occurrence is free fight in nature having counter case, where petitioners also received injuries, negating *prima facie* intention to cause death, coupled with the fact that the petitioners are in custody since 14.09.2022 where trial may take time to conclude, accordingly, the above-named petitioners are directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Saran at Chapra in connection with Chhapra Muffasil P.S. Case No.588 of 2021, subject to the condition as laid down under Section 437(2) of the CrPC and with further conditions:-

(i) That accused/petitioners shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court only on medical ground of the



petitioners duly supported by the documents;
and

(ii) That accused/petitioners shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioners.

(iii) That accused/petitioners shall not directly or indirectly make any threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or tamper with the evidence.

(Chandra Shekhar Jha, J.)

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