

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31068 of 2022

Arising Out of PS. Case No.-268 Year-2021 Thana- DHAMDAHA District- Purnia

Gopal Rai S/O Sri Bhudho Rai Resident Of Village- Sondeep, P.S.-
Bhawanipur, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 18962 of 2022

Arising Out of PS. Case No.-268 Year-2021 Thana- DHAMDAHA District- Purnia

Bambam Kumar Mehta @ Bambam Kumar Son Of Manohar Mehta @ Monu
Mehta @ Mano Mehta Resident Of Village - Phulpur Chhabubasha Tola, P.S.-
Puraini, District - Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 69105 of 2022

Arising Out of PS. Case No.-268 Year-2021 Thana- DHAMDAHA District- Purnia

Nitish Kumar @ Nitish Kumar Paswan Son Of Sikandar Paswan @ Sikindra
Paswan R/V- Itahri, P.S.- Alam Nagar, District- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 72871 of 2022

Arising Out of PS. Case No.-268 Year-2021 Thana- DHAMDAHA District- Purnia

Roshan Kumar Paswan @ Roshan Kumar Son Of Nirmal Paswan Resident Of
Village - Itahari, P.S.- Alam Nagar, District - Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s



Appearance :

(In CRIMINAL MISCELLANEOUS No. 31068 of 2022)

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate

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

(In CRIMINAL MISCELLANEOUS No. 18962 of 2022)

For the Petitioner/s : Mr. Viveka Nandsingh, Advocate

For the Opposite Party/s : Mr. Pawan Kumar Chaurasia, Advocate

(In CRIMINAL MISCELLANEOUS No. 69105 of 2022)

For the Petitioner/s : Mr. Rabindra Kumar Priyadarshi, Advocate

For the Opposite Party/s : Mr. Rajendra Singh Shastri, APP

(In CRIMINAL MISCELLANEOUS No. 72871 of 2022)

For the Petitioner/s : Mr. Bijendra Kumar Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 15-03-2023 All the criminal miscellaneous petitions have arisen out of same police station case number, hence they are heard together and disposed of by a common order.

Let the defects, if any, pointed out by the office be removed within three weeks from the date of this order, failing which the matter be listed again under the appropriate heading for necessary action.

Heard learned counsels for the petitioners and learned APPs for the State.

Petitioners seek regular bail in connection with Dhamdaha P.S. Case No. 268 of 2021, registered for the offences punishable under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

As per allegation made in the FIR, the informant's brother was shot dead by some unknown persons and later on during investigation the informant himself was found involved



in hatching up a conspiracy to kill his own brother and consequently he hired and took the help of co-accused persons to kill his brother and accordingly the informant was made accused in this case and the informant, being petitioner Gopal Rai and co-accused persons Bambam Kumar Mehta @ Bambam Kumar, Nitish Kumar @ Nitish Kumar Paswan and Roshan Kumar Paswan @ Roshan Kumar who were found involved in the alleged conspiracy and murder of the victim have filed the above mentioned criminal miscellaneous petitions for the relief of regular bail.

The main submissions advanced by learned counsel for the petitioner Gopal Rai are that the said petitioner is the informant of the instant case and later on he was made accused in the present case and the FIR was registered against unknown persons and there is no eye-witness of the alleged occurrence. Further submission is that in between this petitioner and the deceased there was a land dispute when the alleged occurrence took place owing to which the petitioner was falsely roped in this case and mainly on the basis of statements of this petitioner and co-accused persons given before the police which have no evidentiary value, this petitioner has been dragged in this case and he has been languishing in jail since 05.01.2022 having fair



and clean antecedent.

The main submissions advanced by learned counsel for the petitioner Nitish Kumar @ Nitish Kumar Paswan are that the role of this petitioner in the alleged crime surfaced in the statement of co-accused Kundan Kumar and as per the prosecution he is stated to be the friend and companion of the accused persons and except this there is no any other allegation against him and he has been languishing in jail since 20.06.2022 having fair and clean antecedent.

The main submissions advanced by learned counsel for the petitioner Roshan Kumar Paswan @ Roshan Kumar are that the name of this petitioner also surfaced in the statement of co-accused Kundan Kumar and except this there is no any other material against him to connect him with the alleged occurrence of murder and the main allegation of causing firearm injury to the deceased is against the co-accused Bambam Kumar Mehta @ Bambam Kumar and not against this petitioner and he has been languishing in jail since 27.06.2022 having fair and clean antecedent.

The main submissions advanced by learned counsel for the petitioner Bambam Kumar Mehta @ Bambam Kumar are that this petitioner has fair and clean antecedent and has



been languishing in jail since 05.01.2022 and against him there is no legal evidence except the statements of this petitioner and co-accused persons given before the police.

Learned APPs appearing for the state have vehemently opposed the prayer for bail of all the petitioners and submitted that the alleged murder of the victim was committed in a very planned manner in furtherance of conspiracy hatched up by the petitioner Gopal Rai who happens to be brother of the victim and he himself lodged the FIR but later on he was made accused and there is serious allegation against all the petitioners and they do not deserve to the privilege of bail.

Heard both the sides and perused the FIR and the case diary of this case. The instant matter relates to murder of the brother of the petitioner Gopal Rai, though the FIR was lodged by the petitioner Gopal Rai himself but later on during investigation he was found involved in the alleged murder and accordingly, he was made accused along with the other petitioners and co-accused persons, during the investigation in the statements of some witnesses it came into light that there was no good relation between the petitioner Gopal Rai and the deceased on account of a land dispute and as per the prosecution on account of the said enmity the petitioner Gopal Rai hatched



up a conspiracy with petitioner Nitish Kumar to eliminate his brother (victim) and thereafter the said petitioner hired other petitioners to kill the victim and for committing the alleged murder they agreed to take Rs. 1,12,000/- from the petitioner Gopal Rai and in following with that agreement Rs. 50,000/- was paid by the said petitioner to the petitioner Nitish Kumar and co-accused Kundan Kumar and after that in furtherance of the said conspiracy and agreement the victim was murdered when he was taking rest in his truck and his murder was committed in a very planned manner by causing firearm injury to the victim at his vital part of the body. Though in the instant matter there is no eye-witness to the commission of the alleged murder but when such type of heinous offence is committed in a planned manner and secretly then in normal course no eye-witness is supposed to be found and in the present matter the police made scientific investigation mainly on the basis of communications between the petitioners and the co-accused through mobile phones as well as their location at the place of occurrence on the basis of their phones tower location and the case diary goes to show that the petitioners were in touch through mobile communication just before the commission of the alleged occurrence and tower location of mobile phones of



some of the petitioners were also found near the place of occurrence during the relevant time of commission of the alleged occurrence of murder and as per the prosecution the petitioner Bambam Kumar Mehta @ Bambam Kumar caused firearm injury to the victim in furtherance of conspiracy hatched up by all the petitioners. In the light of these facts as well as considering the seriousness of the occurrence, in my opinion it is not a fit case for bail to all the petitioners, accordingly, their prayer for bail stands rejected.

However considering the fair and clean antecedent of petitioner Roshan Kumar Paswan @ Roshan Kumar and petitioner Nitish Kumar @ Nitish Kumar Paswan as well as the nature of their role in the commission of the alleged occurrence, they are given a liberty to renew their prayer for bail after the framing of charge if the same has not been framed against them.

(Shailendra Singh, J.)

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