

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85307 of 2023

Arising Out of PS. Case No.-60 Year-2023 Thana- SAUR BAZAR District- Saharsa

Kailash Sharma S/O Late Butan Sharma R/O Village- Kabaila Chak, P.S- Sour Bazar, Distt.- Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 11620 of 2024

Arising Out of PS. Case No.-60 Year-2023 Thana- SAUR BAZAR District- Saharsa

Umesh Yadav @ Umesh Chandra Yadav son of Balmukund @ Bhuwaneshwari Yadav Village- Kabaila Chak Ps- Saur Bazar Dist- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 85307 of 2023)

For the Petitioner/s : Mrs.Vaishnavi Singh, Advocate

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

(In CRIMINAL MISCELLANEOUS No. 11620 of 2024)

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

For the Opposite Party/s : Mr.Kalyan Shankar, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

3 19-03-2024 Heard learned counsel for the petitioners and learned APP for the State. Perused the case diary.

2. The petitioners seek bail in Sour Bazar P.S. case No. 60 of 2023 instituted for the offences under Sections 279, 337, 338, 341, 323, 302, 379, 504, 506/34 of the Indian Penal Code.

3. Prosecution allegation, in short, is that on account



of dashing the motorcycle with a cycle, the son of the informant was assaulted by the accused persons including the petitioners due to which he sustained injuries and later died in course of treatment.

4. Learned counsel for the petitioners submits that the petitioners have falsely been implicated in the present case. There is delay of four days in lodging the F.I.R. The informant is not an eye witness to the alleged occurrence. During the course of investigation, the statement of Barkat was taken, which is mentioned in paragraph 6 of the case diary, in which he stated that he has stated the informant about the said occurrence. Post-mortem report suggests only one injury on the body and hence does not corroborate with the allegation made in the F.I.R. General and omnibus allegation has been made against the petitioners. The petitioner of Cr. Misc. No. 85307 of 2023 is in custody since 31.05.2023 and while the petitioner of Cr. Misc. No. 11620 of 2024 is in custody since 05.09.2023. The petitioners have have no criminal antecedent. After completion of investigation the police submitted charge-sheet under Section 304 of Indian Penal Code.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioners.



6. Considering the aforesaid facts and circumstances of the case, the period of custody undergone by the petitioners and the charge-sheet being submitted under Section 304 I.P.C., this Court is inclined to grant bail to the petitioners.

7. Let the petitioners be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Sour Bazar P.S. case No. 60 of 2023 subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the petitioners.

(II) The petitioners shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioners.

(Rudra Prakash Mishra, J)

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