

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20225 of 2024

Arising Out of PS. Case No.-663 Year-2022 Thana- GHORASAHAN District- East
Champaran

1. GOPAL PRASAD YADAV @ GOPAL PD. YADAV Son of Late Kailash Rai
Resident of Village-Dhum Nagar, P.S.-Ghorasahan, District-East
Champarna.
2. SHASHI BHUSHAN KUMAR Son of Gopal Prasad Yadav @ Gopal Pd.
Yadav Resident of Village-Dhum Nagar, P.S.-Ghorasahan, District-East
Champarna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 20256 of 2024

Arising Out of PS. Case No.-663 Year-2022 Thana- GHORASAHAN District- East
Champaran

SIYARAM SAH Son of Ram Jiwan Sah Resident of Village-Dhum Nagar,
P.S.-Ghorasahan, District-East Champaran.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 20225 of 2024)

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

For the Opposite Party/s : Mr. Dashrath Mehta, APP

For the Informant : Mr. Kamal Kishore Jha, Advocate

(In CRIMINAL MISCELLANEOUS No. 20256 of 2024)

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

For the Opposite Party/s : Mr. Dashrath Mehta, APP

For the Informant : Mr. Kaushal Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 02-08-2024 Heard Mr. Madhurendra Kumar, learned counsel for

the petitioners, Mr. Kamal Kishore Jha, learned Senior Counsel

for the informant and the State.



2. The petitioners are in custody in connection with Ghorasahan P.S. Case No. 663 of 2022 for the offence punishable under sections 302, 34 of the Indian Penal Code lodged on 07.12.2022 by the informant, Rajvanshi Ray.

3. As per the prosecution story, the informant's youngest son namely Sunny Kumar was going to sleep after taking dinner at his 'Gowas' and the informant was following him to feed pudding, In due course, the informant saw that near the house of Kalawati Devi the F.IR named accused persons including the accused petitioner surrounded his son and started assaulting him and took him into the house of Kalawati Devi. The informant raised 'hulla'. The accused petitioner Kalawati Devi and Suraj @ Surat allegedly pressed the neck of his son till his death. After that the rest accused persons hanged the dead body of informant's son on a bamboo by tying with 'Dupatta'. Cause of occurrence is said to be that the accused persons are/ were in the business of illegal liquor and they had suspicion that the informant's son was informer. Accordingly, the FIR.

4. Learned counsel for the petitioners submit that though it is a fact that earlier the chargesheet was submitted under section 306 of the IPC but later upon instruction of the Superintendent of Police, East Champran, it was further



investigated and on the basis of post-mortem report, supplementary chargesheet was submitted under section 302/34 of the IPC and the same was converted from suicide to murder.

5. He, however, submits that so far as the allegation of pressing the neck is concerned, it is specific on Kalawati Devi and Suraj Kumar while omnibus allegation of assaulting is on all the accused persons which included the two petitioners. He submits that considering the aforesaid facts, a co-ordinate Bench allowed the anticipatory bail of Harishankar Ray (in Cr. Misc. No. 18410 of 2024) as also Deepak Kumar, Arun Kumar and Ramayan Rai (in Cr. Misc. No. 18322) who are similarly situate and omnibus allegation of assault is/are against them. He further submits that he will be diligently appearing in trial, if released on bail.

6. Mr. Kaushal Kumar Jha, learned Senior Counsel for the informant submits that earlier under misconception of the boy committing suicide, chargesheet was submitted under section 306 of the IPC, but later, subsequent investigation took place and the post-mortem report shows the cause of death due to assault by all the accused persons and the death is not due to strangulation.

7. Though it is an admitted fact that earlier it was a



case under section 306 of the IPC but later, supplementary chargesheet was submitted under section 302/34 of the IPC, the fact remains that some of the accused persons against whom omnibus allegation alongwith these petitioners were alleged, they have been extended the relief, as recorded above. They were granted anticipatory bail whereas in these two cases, the petitioners are in custody since 27.12.2023.

8. Learned APP too opposes the prayer for bail.

9. Taking into account the fact that as per the FIR, the allegation was on Kalawati Devi and Suraj Kumar but subsequent investigation shows no strangulation there is omnibus allegation of assault on all the accused persons and some of the co-accused have been extended relief, as stated above, this Court is inclined to extend them the privilege of bail with conditions.

10. Let the petitioners, named above, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned A.C.J.M, 3rd, Sikrahana, in connection with Ghorasahan P.S. Case No. 663 of 2022 subject to the following conditions:

(i) one of the bailor should be the family member/relative of the petitioners who shall provide official



document to show his/her bona fide;

(ii) the petitioners shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial Court itself;

(iii) the petitioners shall appear before the concerned police station every month for one year to mark their attendance;

(iv) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioners shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of their bail bonds.

11. The trial court is requested to take up the trial and conclude it expeditiously.

(Rajiv Roy, J)

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