

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25704 of 2024

Arising Out of PS. Case No.-93 Year-2023 Thana- GARHI District- Jamui

Subham Kumar Son of Mathura Yadav Resident of Village- Dumro, P.S.-
Garhi, Dist.- Jamui

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 41781 of 2024

Arising Out of PS. Case No.-93 Year-2023 Thana- GARHI District- Jamui

NITISH KUMAR SON OF RAMOTAR YADAV @ RAMAWATAR YADAV
RESIDENT OF VILL- TETARIYATAND, P.S.- GARHI, DITRICT- JAMUI.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 25704 of 2024)
For the Petitioner/s : Mr. S.K.Lal, Advocate
Mr.Umesh Prasad
For the Opposite Party/s : Mr. Shailendra Kumar
(In CRIMINAL MISCELLANEOUS No. 41781 of 2024)
For the Petitioner/s : Ms.Dimpal Kumari
For the Opposite Party/s : Mr.Uday Chand Prasad

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

4 20-08-2024 Heard the learned counsel for the petitioners and

learned APP for the State.

2. These are applications for regular bail on behalf

of the petitioners for the offences alleged under Sections 302,

201 and 120B/34 of the Indian Penal Code, registered in



connection with Garhi P.S.Case No. 93 of 2023.

3. As per allegation, the deceased, who was a driver of e-rickshaw, received a call on his mobile number 9931136850 from an unknown person, who wanted to hire his e-rickshaw. After receiving the call in the night, the deceased proceeded. Sunil Kumar, the son of the deceased also accompanied him to Kurwatand. The informant, who is widow of the deceased, alleges further that she got an information from the *Chowkidar* that the dead-body of her husband was lying near Gidheshwar Mandir. She along with villagers went there, where Sunil Kumar, apprised her that co-accused Mukesh @ Makeshwar and his two associates had killed the deceased. Sunil also narrated his mother that Mukesh @ Makeshwar was making allegation on the deceased that, despite an agreement, he (the deceased) was not transferring six bighas of land in favour of Mukesh @ Makeshwar.

4. The learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated. They are not named in the FIR. Only co-accused Mukesh @ Makeshwar Yadav has been named in the FIR. Further submission is that the FIR itself reveals that there was no enmity between the petitioner and the deceased, rather the



enmity was between the deceased and the co-accused Mukesh @ Makeshwar Yadav due to non-transferring of the land. The learned counsel has also submitted that at page-26 of the case diary, the statement of the sole eye-witness Sunil Kumar has been recorded, which shows that he did not name the petitioners in his statement. It has next been argued that still no TIP has been conducted and the petitioners are under incarceration for nearly one year and the report from the learned court below which is available with the record, shows that after framing of the charges, not a single witness has been examined, though six witnesses have been named in the charge-sheet.

5. On the other hand, the learned APP opposed the prayer for bail by submitting that these two petitioners are the persons, who participated in the murder of the deceased, along with main accused Mukesh @ Makeshwar Yadav.

6. The petitioners are not named in the FIR. The sole eye-witness has not named these petitioners, rather he has named only Mukesh @ Makeshwar Yadav. No TIP has been conducted till date and not a single witness has been examined after framing of the charges, as per the report of the learned trial court.

7. Considering the above facts and circumstances, let



the petitioners of both the case, above-named, be released on bail on furnishing bail bond of Rs. 10,000/-(ten thousand) each, with two sureties of the like amount each, to the satisfaction of learned J.M. 1st Class, Jamui in connection with Garhi P.S.Case No. 93 of 2023, **subject to the condition that the petitioners shall cooperate in the disposal of trial and make themselves available on each and every date fixed at the trial, and if they fail to appear on two consecutive dates, unless they are prevented by extremely adverse circumstances, the court below shall be at liberty to cancel their bail bonds.**

(Nawneet Kumar Pandey, J)

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