

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33848 of 2023

Arising Out of PS. Case No.-249 Year-2022 Thana- SIMRI District- Darbhanga

Md Chhote @ Md Chote Son Of Md Mobeen @ Md Musa Resident of
Village- Sobhan Shankarpur, P.S.- Simri, District- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 27265 of 2023

Arising Out of PS. Case No.-249 Year-2022 Thana- SIMRI District- Darbhanga

Md. Jawed S/O Md. Noorullah Resident of Village- Sobhan, Maniyari, P.S.-
Simri, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 39261 of 2023

Arising Out of PS. Case No.-249 Year-2022 Thana- SIMRI District- Darbhanga

Md. Firoz @ Firoz Son of Late Md. Mazid Resident of Village- Shobhan
Manihari, PS- Simri, District- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 33848 of 2023)

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
Ms. Vaishnavi Singh, Advocate
Mr. Ritwik Thakur, Advocate

For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP
(In CRIMINAL MISCELLANEOUS No. 27265 of 2023)

For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate

For the Opposite Party/s : Mr. Navin Kumar Pandey, APP

(In CRIMINAL MISCELLANEOUS No. 39261 of 2023)

For the Petitioner/s : Mr. Krishna Chandra Jha, Advocate
Mr. Anish Kumar, Advocate
Dr. Prabhakar Thakur, Advocate

For the Opposite Party/s : Mr. Anant Kumar 1, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA



ORAL ORDER

9 23-02-2024 Heard learned counsel for the petitioners, learned APP for the State and learned counsel for the informant. Perused the case diary.

2. The petitioners seek bail in Simri P.S. Case No. 249 of 2022, instituted for the offences punishable under Sections 302, 120(B), 34 of the Indian Penal Code, Section 25(1-b)a, 27 and 35 of the Arms Act.

3. The prosecution case, in short, is that, the dead body of informant's husband was found on the eastern side of village near bamboo clump with mark of violence on his body. It is alleged that one of the co-accused took her husband on the pretext of showing a land from where her husband did not return. It is further alleged that as her husband had paid Rs. 16 lacs in advance to the petitioner No. 2, he was killed due to non-execution of sale deed by the petitioner No. 2.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in the present case. The names of the petitioners have transpired in the present case on the basis of confessional statement of one another. The petitioners are languishing in jail custody since 10.12.2022 and have clean antecedent. Charge-sheet has already been submitted in this case. Learned counsel for the



petitioners further submits that the name of the petitioners have come in the present case merely on the basis of suspicion.

5. Learned APP for the State has vehemently opposed the prayer for grant of bail to the petitioners. Learned APP has submitted that the confessional statement of petitioners led to the recovery of arms and iron rod used in the occurrence. There are two post-mortem reports in this case. In the first post-mortem report conducted on 08.12.2022, the cause of death was shown to be due to road accident. While in the second post-mortem report, which was conducted on 23.12.2022, the doctor has opined that the injury on the left side of back appears to have been caused by a fire arms and the same was recovered on the basis of confessional statement of petitioners.

6. A consolidated counter affidavit has been filed on behalf of the informant. In paragraph (XI) of the counter affidavit, it has been mentioned that on the confession of arrested all accused persons, country made pistol was recovered which was used in the crime (vide paragraph 68 of the case diary. Further mobile of the deceased was recovered near the place of occurrence (vide paragraph 70 of the case diary. In paragraph 72 of the case diary, it was mentioned that weapon used in crime i.e. iron rod was also recovered and empty



cartridge was also recovered from place of occurrence (vide paragraph 81 of the case diary). In paragraph XXII of the counter affidavit, it was further stated that a forensic report dated 11.05.2023 was received in which doctor has clearly given opinion that firing was made from the pistol which was recovered.

7. Considering the aforesaid facts and circumstances of the case and the nature and gravity of offence, this Court is not inclined to grant bail to the petitioners. The prayer is rejected. The trial Court is directed to expedite the trial.

(Rudra Prakash Mishra, J)

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