

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43871 of 2024

Arising Out of PS. Case No.-171 Year-2023 Thana- ANDHRAMATH District- Madhubani

Devan Sah @ Devendra Prasad Sah son of Late Ganeshi Sah Village-
Hariraha Ps- Andhramath Dist- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 46287 of 2024

Arising Out of PS. Case No.-171 Year-2023 Thana- ANDHRAMATH District- Madhubani

Ranjeet Sah @ Ranjeet Kumar Sah S/o Mahesh Sah R/o vill - Hariraha, P.S. -
Andhramath, Distt. - Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 47765 of 2024

Arising Out of PS. Case No.-171 Year-2023 Thana- ANDHRAMATH District- Madhubani

Akhilesh Yadav Son of Shree Ram Yadav Resident of Village - Bagewa, P.S.-
Andhramath, District - Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 48968 of 2024

Arising Out of PS. Case No.-171 Year-2023 Thana- ANDHRAMATH District- Madhubani

Laxmi Sah Son of Pramod Sah Resident of Vill- Bagewa, P.S.- Andhramath,
District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s



CRIMINAL MISCELLANEOUS No. 53574 of 2024

Arising Out of PS. Case No.-171 Year-2023 Thana- ANDHRAMATH District- Madhubani

Md. Hazarat son of Md. Sultan Village- Jarauli, Ps- Andhramath, Dist- Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 54170 of 2024

Arising Out of PS. Case No.-171 Year-2023 Thana- ANDHRAMATH District- Madhubani

Nitish Kumar Sah @ Nitish Sah Son of Shibnath Sah R/O- VILAGE- JARAULI, P.S.- ANDHARMATH, DISTT.- MADHUBANI

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 43871 of 2024)

For the Petitioner/s : Mr. Rama Kant Sharma, Sr. Adv.
Mr. Baleshwar Kamat, Adv.

For the Opposite Party/s : Mr.Brajendra Nath Pandey, APP

(In CRIMINAL MISCELLANEOUS No. 46287 of 2024)

For the Petitioner/s : Mr. Baleshwar Kamat, Adv.
Mr. Kumar Uday, Adv.
Mr. Arun Kumar, Adv.

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

(In CRIMINAL MISCELLANEOUS No. 47765 of 2024)

For the Petitioner/s : Mr. Ranjay Kumar Singh, Adv.

For the Opposite Party/s : Mr. Shyameshwar Dayal, APP

(In CRIMINAL MISCELLANEOUS No. 48968 of 2024)

For the Petitioner/s : Mr. Jitendra Bharti, Adv.

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

(In CRIMINAL MISCELLANEOUS No. 53574 of 2024)

For the Petitioner/s : Mr. Jitendra Kumar Bharti, Adv.

For the Opposite Party/s : Mr. Bharat Bhushan, APP

(In CRIMINAL MISCELLANEOUS No. 54170 of 2024)

For the Petitioner/s : Mr. Rakesh Kumar Sharma, Adv.

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

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

5 13-11-2024

Heard learned Senior counsel Mr. Rama Kant



Sharma who has led the case in all the bail applications, the other learned counsels appearing in the cases are Mr. Ranjay Kr. Singh, Mr. Kumar Uday and Mr. Jitendra Kumar Bharti for the petitioners and Mr. Jitendra Kumar Singh, Mr. Bharat Bhushan, Mr. Brajendra Nath Pandey, Nand Kishore Prasad, Shyameshwar Dayal and Ashok Kumar Singh learned counsels representing the State.

2. The petitioners are in custody in connection with S.T. No. 159 of 2024 arising out of Andhramath P.S. Case No. 171 of 2023 for the offence punishable under sections 302, 120(B) of the Indian Penal Code as well as Section 27 of Arms Act lodged on 16.10.2023 by the informant, Mamta Devi.

3. The lady is the mother of the deceased who alleged that on the fateful evening, Akhilesh Yadav (Cr. Misc. No. 47765 of 2024) called his son. Accordingly, the deceased, Roushan went to the Chowk, had food with him and later Akhilesh asked him to return to his house. The allegation is that subsequently, Laxmi Sah, Bhogi Sah and Bihari Sah followed her son and near the brick kiln of Santosh Ram, they opened fire killing him on the spot. Allegation against Md. Hajrat is of serving as a liner to the accused persons. Her further allegation is that earlier, Laxmi Sah had scuffle with her son who had



threatened him of dire consequences. This led to the FIR.

4. In this case, the Co-ordinate Bench had called for the case diary, which is on record.

5. Learned Senior Counsel submits that admittedly, the killing took place near the brick kiln of Santosh Ram, the mother (informant) was at her home and as such, despite the allegation made in the FIR, she cannot be an eye witness to the alleged occurrence. It is his further submission that virtually no one has seen the killing of her sons but as an afterthought and after the mortal remains were consigned to the flames, the FIR was lodged in which number of innocent persons have been implicated. He submits that the accused persons are in custody immediately after the occurrence. The last submission is that most of the accused persons have criminal antecedents.

5. Mr. Jitendra Kumar Singh, learned APP has led the argument on behalf of the State and he has taken this Court to the different paragraphs of the case diary to show that not only the informant but another person has also given the statement that when they reached near Roushan, he gave the names of the accused which include these petitioners and immediately thereafter, they found him dead.

6. Learned Senior counsel for the petitioners dispute



the same submitting that as per the post-mortem report, there are five entry wounds and it is assumed that he died immediately thereafter, as an afterthought this statement has been made that he uttered the names of the accused persons.

7. This Court has gone through the facts of the case, the materials on record as also the submissions put forward by the learned Senior counsel/learned APPs.

8. Another point to be noted is/are that the killing took place on 14.10.2023 and as per the F.I.R., the police got the information on that night at 09.50 PM. The police takes the dead body at 11.05 PM on the same night. Post-mortem takes place and mortal remains was consigned to flames thereafter. The police chose to register the FIR only on 16.10.2023 at 07.05 AM. The inordinate delay in lodging the FIR in a case of killing when the police got the information at the first instance cannot be ignored.

9. Further, from the investigation, it is clear that the killing took place near the brick kiln of Santosh Ram. It is thus clear that actual incident was not seen by anyone much less the informant. Another statement has been recorded in paragraph 7 of the case diary in which it has been stated that while Hazarat Sah was moving on a motorcycle near the house of the



deceased, Ranjeet Sah, Devan Sah and Nitish Sah were moving on their motorcycle with their headlights off.

10. This at best, points finger towards the accused persons but in absence of complete CDR details of the movement of the accused persons in the case diary, the same cannot be corroborated. This coupled with the fact that charge-sheet already stands submitted, it has been undertaken by the learned Senior counsel for the petitioners, and that if granted relief, they shall be diligently appearing in trial without fail, as stated above, most of the accused persons have been in custody for almost ten months, in that background, this Court is inclined to extend them the privilege of bail with strict conditions.

11.. Let the petitioners 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 Addl. District & Sessions Judge-III, Jhanjharpur, District-Madhubani in connection with S.T. No. 159 of 2024 arising out of Andhramath P.S. Case No. 171 of 2023 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 his 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 and shall also provide their respective mobile numbers so that they can be contacted, if needed by the police/Court;

(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.

12. Nothing recorded in the order shall be taken up for consideration during the course of the trial as the same has been observed only for the purpose of consideration of bail.

(Rajiv Roy, J)

Vijay Singh/-

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