

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41196 of 2024

Arising Out of PS. Case No.-105 Year-2023 Thana- BANDHUWA KURAWA District- Banka

Kuldip Yadav @ Kuldip Prasad Yadav Son of Late Makeswar Yadav R/O
Vill.- Jhalar, P.S.- Bandhua Kurawa, Dist.- Banka, Bihar

... .. Petitioner/s
Versus
The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 40693 of 2024

Arising Out of PS. Case No.-105 Year-2023 Thana- BANDHUWA KURAWA District- Banka

SAMUNDAR YADAV @ SAMUNDAR PRASAD YADAV S/O LATE
MAKESHWAR YADAV R/O VILLAGE- JHALAR, P.S- BANDHWA
KURAWA, DISTT.- BANKA.

... .. Petitioner/s
Versus
THE STATE OF BIHAR

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 44213 of 2024

Arising Out of PS. Case No.-105 Year-2023 Thana- BANDHUWA KURAWA District- Banka

Naresh Yadav son of Late Shaligram Yadav Village- Jhalar PS- Bounsi Dist-
Banka

... .. Petitioner/s
Versus
The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 49861 of 2024

Arising Out of PS. Case No.-105 Year-2023 Thana- BANDHUWA KURAWA District- Banka

Pappu Yadav Son of Late Prayag Yadav Resident of Village - Jhalar, P.S.-
Bandhua Kurawa, District - Banka.

... .. Petitioner/s
Versus
The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 53090 of 2024

Arising Out of PS. Case No.-105 Year-2023 Thana- BANDHUWA KURAWA District- Banka



Doma Yadav @ Birendra Yadav @ Bijendra Yadav @ Virendra Yadav son of
Deo Narayan Yadav @ Bonga Yadav R/V- DHOBARANA, P.S.- BANDHUA
KURAWA, DISTT.- BANKA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 41196 of 2024)

For the Petitioner/s : Mr.Bhaskar Shankar

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

(In CRIMINAL MISCELLANEOUS No. 40693 of 2024)

For the Petitioner/s : Mr.Priyanka Singh

For the Opposite Party/s : Mr.Rajesh Kumar

(In CRIMINAL MISCELLANEOUS No. 44213 of 2024)

For the Petitioner/s : Mr.Brij Nandan Prasad

For the Opposite Party/s : Mr.Kumar Veerendra Narayan

(In CRIMINAL MISCELLANEOUS No. 49861 of 2024)

For the Petitioner/s : Mr.Bhaskar Shankar

For the Opposite Party/s : Mr.Ramesh Chandra

(In CRIMINAL MISCELLANEOUS No. 53090 of 2024)

For the Petitioner/s : Mr.Balram Kapri

For the Opposite Party/s : Mr.Choubey Jawahar

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

CAV ORDER

5 03-09-2024 I have already heard the learned counsels for the

petitioners and the learned APPs for the State.

2. These are the applications for regular bail on

behalf of the petitioners for the offences alleged under Sections
302, 307, 504, 506, 147, 148 and 149 of the Indian Penal Code
and Section 27 of the Arms Act, registered in connection with
Bandhua Kurawa P.S.Case No. 105 of 2023.

3. As per allegation, in the mourning of 08.12.2023,

the petitioner Pappu Yadav was passing through by his Scorpio
vehicle, asked Arun Kumar Yadav (the deceased) as to why he



had parked his bike on the way. Thereafter, Pappu Yadav started abusing Arun Kumar Yadav. The persons present in the vehicle also made altercation with Arun Kumar Yadav. Again in the evening at about 6.00 p.m. the petitioner Pappu Yadav, co-accused Himanshu Yadav, co-accused Amar Yadav, the petitioner Kuldip Yadav, the petitioner Samundar Yadav @ Samundar Prasad Yadav, the petitioner Doma Yadav @ Birendra Yadav and the petitioner Naresh Yadav, along with 2-3 unknown persons, came to the house of the informant in a black-coloured Scorpio vehicle and also on three bikes. They started indiscriminate firing. The petitioner Samundar Yadav fired with a gun, which hit Arun Kumar Yadav. Pappu Yadav also fired with a rifle which hit Arun Kumar Yadav. Co-accused Himanshu Yadav fired with a rifle which hit Kuldip Rai. Amar Yadav also fired with his pistol which hit Kuldip Rai. The petitioner Kuldip Yadav fired with a sixer gun which hit Sharda Kumari and Arun Kumar Yadav. The petitioner Naresh Yadav fired with a *katta* (country-made pistol), which hit Tara Devi and Kuldip Rai. The petitioner Doma Yadav @ Birendra Yadav fired with a sixer gun which hit Bindu Devi and Arun Kumar. Assuming the injured persons to be dead, the miscreants fled away from the scene of occurrence. Arun Kumar Yadav was declared dead when he was



brought to the hospital. Kuldip Rai also died during the course of treatment.

4. The learned counsel for the petitioners submitted that the petitioners are innocent and have falsely been implicated. It has also been submitted that the occurrence had taken place in the night of 08.12.2023, and the matter was reported in the same night, but the FIR was lodged at 11.45 a.m. on 09.12.2023. Further argument is that the post mortem of the dead-body of Arun Kumar Yadav was conducted on 09.12.2023 at 10.30 a.m., near about one hour prior to the lodging of the FIR, which shows that the FIR is ante-timed. It has also been submitted that the injury report of Sharda Devi is not on the record and the post mortem report of Arun Kumar Yadav shows abrasions on chest wall, face, right upper limb, left upper limb and bleeding from nose and on internal examination, it was found that the heart was ruptured. A pellet was recovered from his body which shows that it was a gunshot injury, and not an injury of rifle.

5. It has also been submitted on behalf of the petitioner Kuldip Yadav that Baunsi P.S. Case No. 53 of 2010 was lodged under Sections 302, 379, 427 and 34 of the Indian Penal Code and Sections 3, 4 and 5 of the Explosive Substances



Act and Section 27 of the Arms Act for murder of his elder brother namely Prayag Yadav and *Phupha* of the deceased Arun Kumar Yadav namely Babu Lal Yadav was the prime accused in that case and it was the reason for the false implication of the petitioner.

6. It was argued on behalf of the petitioner Naresh Yadav that on the day of occurrence, he was under treatment in AIIMS-Delhi, but the papers annexed with the bail application shows that on the date of occurrence, he was not under treatment in AIIMS-Delhi. It has also been submitted that there is allegation against the petitioner is to assault Tara Devi, who suffered injury but from perusal of the FIR, it appears that the petitioner had fired at Tara Devi and also on Kuldip Rai with a country made pistol.

7. So far as the petitioner Samundar Yadav @ Samundar Prasad Yadav is concerned, the specific allegation against him is to open fire on Arun Kumar Yadav (the deceased) with a gun. It has been argued on behalf of the petitioner that he is a teacher in government upgraded middle school, Banka. On the day of lodging of the FIR he was in his school.

8. Specific allegation against Pappu Yadav is of opening fire on the deceased Arun Kumar Yadav. It has wrongly



been submitted that the allegation against Pappu Yadav is of firing from rifle which hit Sharda Kumari and Kuldip Rai. It is factually incorrect statement.

9. Specific allegation against the petitioner Doma Yadav @ Birendra Yadav is of opening fire on Bindu Devi and Arun Kumar Yadav. It has been argued on his behalf that the injury report of Bindu Devi has not been brought on record.

10. It appears that in her statement recorded during the course of investigation, Bindu Devi has fully supported the occurrence and she has stated specifically that Doma Yadav @ Birendra Yadav opened fire which hit herself and Arun Kumar Yadav (the deceased).

11. From perusal of para-221 of the case diary, it appears that supplementary investigation is still going on, on some points and the injury reports of the injured persons were not made available to the Investigating Officer, till submission of the charge sheet.

12. The post mortem reports of the deceased person are annexed with the record which show that the deceased Kuldip Rai had suffered as many as eight fire-arm injuries on his person. On dissection of cavities, eight metallic pellets were recovered from different areas of his body. Eight wounds of



entry of size about 3mm x 3 mm with burnt margins were present over middle of his neck, front manubrio-sternal junction, right 3rd inter-coastal space about 2” lateral and above right nipple, right 8th inter-coastal space in lateral chest wall, left upper thigh, right upper inguinal region, apex of right axilla and right lateral side of forehead.

13. So far as the deceased Arun Kumar Yadav is concerned, he also received fire-arm injury and his heart was found ruptured.

14. **The petitioners Kuldip Yadav and Samundar Yadav have also criminal antecedents.**

15. Considering the facts and circumstances of the case and also keeping in view the gravity of the occurrence in which two persons lost their lives, this Court is not inclined to grant the privilege of bail to the petitioners.

16. The applications are accordingly rejected.

(Nawneet Kumar Pandey, J)

HR/-

U		T	
---	--	---	--

