

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61581 of 2024

Arising Out of PS. Case No.-191 Year-2024 Thana- BANKA District- Banka

Jayamala Devi Wife of Ashok Jha R/O Vill.- Bihanpur, P.S.- Banka, Dist.- Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 62910 of 2024

Arising Out of PS. Case No.-191 Year-2024 Thana- BANKA District- Banka

1. Bambam Kumar Son of Mukesh Mandal Village- Eksingha, P.S.- Banka, District- Banka
2. Badal Kumar Malik @ Lattu @ Badal Malik Son of Ajoy Malik Village- Eksingha, P.S.- Banka, District- Banka
3. Rajhans Kumar @ Raj Kumar @ Rajhans Son of Hiralal Yadav Village- Eksingha, P.S.- Banka, District- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 61581 of 2024)

For the Petitioner/s : Mr. Ranjan Kumar Jha, Advocate
: Mr. Subhash Kumar Jha, Advocate
For the State : Mr. Tapeshwar Sharma, APP

(In CRIMINAL MISCELLANEOUS No. 62910 of 2024)

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate
: Mr. Brij Nandan Prasad, Advocate
For the State : Mrs. Asha Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 28-11-2024 Heard Mr. Ranjan Kumar Jha, learned counsel for

the petitioner in Cr. Misc. No.61581 of 2024 (Jayamala Devi)

and Mr. Yogesh Chandra Verma, learned Senior Counsel for the

petitioner in Cr. Misc. No.62910 of 2024 (Bambam Kumar and

Ors.) as also Mr. Ajay Mukherjee representing the informant in



both the cases.

2. The petitioners are in judicial custody in connection with Banka P.S. Case No. 191 of 2024 for the offences punishable under Section 365 of the Indian Penal Code and later added section 302 of the Indian Penal Code, lodged on 05.05.2024 by the informant, Kumar Gautam.

3. As per the prosecution story, the informant who is Uncle of the deceased, Ashish Kumar Modi alleged that his brother/sister-in-law were away to Kolkata and nephew Ashish was alone at home. There is also a tenant in the said premises living with the family. As he was missing and the mobile of Ashish Modi was also switched off, apprehending something untoward, the F.I.R.

4. Subsequently, the Police investigated the matter whereafter it came to light that Ashish Kumar Modi (deceased) has actually been killed and the role of the tenants, Ashok Kumar Jha/family members came into light. The police picked up the son of Ashok Kumar Jha namely Golu who spilled the beans. According to him, his sister Smriti Priya was in relationship with the deceased prior to her marriage. Subsequently, she got married to Gauri Shankar Jha but the relationship continued which affected the family life of the



couple.

5. Whenever, Smriti Priya used to visit the parent's home, they usually were having intimate time with each other and peeved with the said relationship, both the brother-in-law Gauri Shankar Jha as also Golu conspired to kill him. This ultimately resulted into Ashish Modi being killed by putting towel around his neck by Golu and thereafter, allegation is that the dead body was taken into car. Bambam, Badal and Rajhans were hired on a consideration amount of Rs.5,00,000/- to dispose of the mortal remains.

6. It is under these circumstance that the family members which include the lady, mother of Golu (petitioner Jayamala Devi) as also Bambam, Badal and Rajhans coming into judicial custody and are now before this Court for grant of bail.

7. It is the joint submission of both Mr. Ranjan Kumar Jha and Mr. Yogesh Chandra Verma, learned Senior Counsel that the main allegation is against Golu, son of petitioner Jayamala Devi as also the son-in-law, Gaurishankar Jha that they conspired and ultimately led to the killing. So far as the family members are concerned, being resident of the same building, their moving out and in the house does not mean that all of them



conspired. Further, so far as Bambam Kumar, Badal Kumar and Rajhans Kumar are concerned, even going by the confessional statement of Golu, Ashish Modi was killed by himi with the help of Gauri Shankar Jha and only after the dead body was taken out, their roles come into picture. In sum, allegation of murder is not on them.

8. It is their further submissions that none of them criminal antecedent, Jayamala Devi is a lady, all of them are in custody since 07.05.2024/08.05.2024 and if granted relief, they shall be diligently appearing in Trial without fail and without unnecessary resorting to delaying tactics. Failure to do so, prosecution shall be free to take steps for the cancellation of their bail bonds.

9. Learned counsel appearing on behalf of the informant Mr. Ajay Mukherjee on the other hand submits that the reason is the illicit relationship between the Smriti Priya and the deceased and as such, the role of family members to remove the boy from the world cannot be ignored. All of them resided the house when the killing took place, they were also seen in the CCTV camera moving out and in of the house when the actual occurrence took place.

10. Having gone through the facts of the case as also



the materials on record and further the submissions put forward by the parties, the reason for killing is there, the daughter of the petitioner, Jayamala Devi was in relationship with the deceased, she was married, naturally it was not liked by the family members. However, it is clear from the confessional statement of Golu which found supported by the fact that ultimately the dead body was recovered and actually Gauri Shankar Jha and Golu are/were the ultimate actors in the entire episode.

11. The mother, (petitioner, Jayamala Devi) may be an abettor and as is an accused will face the music, the other petitioners came into picture only after the man was killed and they were hired to dispose of the body. Allegation of killing is not on them.

12. Considering all these facts as also that they have undertaken to diligently appear in Trial without any delaying tactics, have no criminal antecedent, are in custody since 07.05.2024/08.05.2024, this Court is inclined to extend him the privilege of bail.

13. 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 Chief Judicial Magistrate, Banka in connection with Banka P.S. Case No. 191 of 2024, 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 *bona fide*;

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

(iii) the petitioners of Cr. Misc. No.62910 of 2024 namely Bambam Kumar, Badal Kumar and Rajhans Kumar shall appear before the concerned police station every fortnight for next 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 bail bonds.

(Rajiv Roy, J)

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