

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64697 of 2023

Arising Out of PS. Case No.-125 Year-2023 Thana- DHANARUA District- Patna

KAMLESH PRASAD @ CONGRESS S/O RAMDEV PRASAD @
RAMDEV SINGH R/O VILLAGE- SEVDAHA BIGHA, P.S- DHANARUA,
DISTT.- PATNA.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 68405 of 2023

Arising Out of PS. Case No.-125 Year-2023 Thana- DHANARUA District- Patna

LALBABU PRASAD @ GOITHA S/O RAMDEV PRASAD @ RAMDEV
SINGH R/O VILLAGE- SEVDAHA BIGHA, P.S- DHANARUA, DISTT.-
PATNA.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 70658 of 2023

Arising Out of PS. Case No.-125 Year-2023 Thana- DHANARUA District- Patna

AKHILESH PRASAD @ AKHILESH KUMAR son of Kamlesh Prasad @
Congress Village- Sevdaha Bigha Ps- Dhanarua Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 80528 of 2023

Arising Out of PS. Case No.-125 Year-2023 Thana- DHANARUA District- Patna

1. BANTI KUMAR SON OF HARKHIT PRASAD @ HARSHIT PRASAD
R/O VILLAGE- SEODAHA, P.S.- DHANARUA, DIST.- PATNA
2. SANJAY KUMAR SON OF BRIJNANDAN PRASAD R/O VILLAGE-
MAHARAJCHAK, P.S.- MASAURHI, DIST.- PATNA



... .. Petitioner/s

Versus

THE STATE OF BIHAR PATNA

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 64697 of 2023)

For the Petitioner/s : Mr.Kumar Kaushik

For the Opposite Party/s : Mr.Bishweshwar Ram

(In CRIMINAL MISCELLANEOUS No. 68405 of 2023)

For the Petitioner/s : Mr.Kumar Kaushik

For the Opposite Party/s : Mr.Bishweshwar Ram

(In CRIMINAL MISCELLANEOUS No. 70658 of 2023)

For the Petitioner/s : Mr.Kumar Kaushik

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

(In CRIMINAL MISCELLANEOUS No. 80528 of 2023)

For the Petitioner/s : Mr.Anirudh Kumar Sinha

For the Opposite Party/s : Mr.Dashrath Mehta

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 23-01-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners seek bail in connection with Sessions Trial No. 777 of 2023 arising out of Dhanarua P.S. Case No. 125 of 2023 registered for the offences punishable under Sections 302, 307, 147, 149, 341, 323, 120(B) of the Indian Penal Code and Section 27 of the Arms Act.

3. As per prosecution case, on 09.03.2023 informant's husband was called by the co-accused persons, namely, Rahul Kumar @ Fokan (son of Brajbhushan @ Gaban Prasad), Chunnu Kumar @ Ranbir, Rahul Kumar (son of Bidyanand Prasad) and Sanjay Kumar near petrol pump to play D.J. where informant's husband was brutally assaulted by the said co-



accused persons. Thereafter, informant's husband came running to his house but said co-accused persons including the petitioners and others started assaulting the informant's husband by means of lathi-danda in front of informant's house. It is further alleged that petitioner Kamlesh Prasad @ Congress and Akhilesh Prasad as well as other started assaulting the informant's husband with iron rod on head as a result of which informant's husband became unconscious and fell down on the ground. It is further alleged that petitioner Lalbabu Prasad @ Goitha and Banti Kumar as well as other started assaulting the informant's husband with lathi-danda. It is also alleged that petitioner Kamlesh Prasad @ Congress, Akhilesh Prasad and other took away the informant's husband by Santro Car and after killing the informant's husband threw his dead body. It is also alleged that during the course of assault, petitioner Banti Kumar and other made firing. Reason behind the occurrence is that informant had solemnized love marriage with the deceased four years ago and due to said love marriage accused persons became annoyed.

4. Learned counsel for the petitioners submits that petitioner Kamlesh Prasad @ Congress is father, petitioner Lalbabu Prasad @ Goitha is uncle and petitioner Akhilesh



Prasad @ Akhilesh Kumar is brother of the informant. Learned counsel further submits that above stated petitioners have been falsely implicated in this case just because they are opposing the love marriage of informant which has been solemnized four years back and during four years of love marriage, no complain regarding ill-treatment or assault has been made against the petitioners. Learned counsel further submits that in the FIR, there is allegation that petitioner Banti Kumar and other made firing but no firing material was recovered from the place of occurrence and no firearm injury was found in the postmortem examination which also falsifies the prosecution case. The postmortem report indicates only three injury on the body of the deceased whereas there is allegation in the FIR that 17 persons are said to have assaulted the informant's husband. Learned counsel further submits that there is no specific allegation against any of the petitioners rather the allegations are general and omnibus in nature. Petitioner Kamlesh Prasad @ Congress is in custody since 13.03.2023, petitioner Lalbabu Prasad @ Goitha is in custody since 24.03.2023, petitioner Akhilesh Prasad @ Akhilesh Kumar is in custody since 13.05.2023 and petitioners Banti Kumar and Sanjay Kumar are in custody since 14.06.2023. Petitioners have no criminal antecedent. Charge



sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that co-accused Ganesh Prasad @ Ganesh Kumar has already been granted bail by a co-ordinate Bench of this court vide Cr. Misc. No. 71371 of 2023 and the case of petitioners, namely, Kamlesh Prasad @ Congress, Lalbabu Prasad @ Goitha and Akhilesh Prasad @ Akhilesh Kumar stands on similar footing and on the principle of parity, they deserve bail. Similarly, co-accused Rahul Kumar @ Fokan and Chunnu Kumar @ Ranbir Kumar have also been granted bail by a co-ordinate Bench of this court vide Cr. Misc. No. 63365 of 2023.

5. The learned A.P.P. for the State opposes the prayer for bail of the petitioners.

6. Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of petitioners, co-accused has already been granted bail, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioners above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees



Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II, Masaurhi, Patna in connection with Sessions Trial No. 777 of 2023 arising out of Dhanarua P.S. Case No. 125 of 2023, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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