

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22152 of 2025

Arising Out of PS. Case No.-142 Year-2012 Thana- BARACHATTI District- Gaya

Chuhi Prasad @ Jitendra Kumar @ Jitendra Prasad S/o Late Kamaldev Mahto
@ Kamaldev Narayan R/o Vill.- Adalpur, P.S.- Barachatti, Distt.- Gaya
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 44441 of 2025

Arising Out of PS. Case No.-142 Year-2012 Thana- BARACHATTI District- Gaya

Raju Kumar Prasad @ Raju Prasad S/o Late Kamaldev Mahto @ Kamaldev
Narayan R/o Vill- Adalpur, P.S.- Barachatti, Distt- Gaya
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 22152 of 2025)

For the Petitioner/s : Mr. Binod Kumar Sinha, Advocate

For the Opposite Party/s : Mr.Rajendra Singh Shastri, APP

(In CRIMINAL MISCELLANEOUS No. 44441 of 2025)

For the Petitioner/s : Mr. Binod Kumar Sinha, Advocate

For the Opposite Party/s : Mr.Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA

ORAL ORDER

5 13-08-2025 Both cases have been taken up and heard together as

they arise out of the same PS Case number and are disposed of

by this common order.

2. Heard learned counsel for the petitioners and
learned A.P.P. for the State.

3. The petitioners seek bail in connection with
Barachatti P.S. Case No. 142 of 2012, dated 01-04-2012,
registered for offences punishable under Sections 341, 323 and
34 of the Indian Penal Code and Sections 3, 4 and 5 of



Witchcraft Act.

4. The prosecution's case, in brief, is that on 30.03.2012, at about 5:00 P.M., the informant's wife, Rukmini Devi, was badly assaulted by co-accused Kamal Dev Mahto of the village, along with his wife, his son Raju Prasad (petitioner in Cr. Misc. No. 44441 of 2025), Raju Prasad's wife, Chuhi Prasad (petitioner in Cr. Misc. No. 22152 of 2025), and Chuhi Prasad's wife. They all acted together and accused her of being a witch. They had been assaulting her since the day before and later took her away. Even after searching, no one could find her.

5. Learned counsel for the petitioners submits that the petitioners are innocent and they have been falsely implicated in the present case. It is further submitted that Raju Kumar Prasad @ Raju Prasad, petitioner in Cr. Misc. No. 44441 of 2025, and Chuhi Prasad @ Jitendra Kumar @ Jitendra Prasad, petitioner in Cr. Misc. No. 22152 of 2025, are full brothers. There are only general and omnibus allegations against the petitioners. There is no eye-witness to the occurrence, and the petitioners have been implicated merely on suspicion. It is further submitted that after investigation, the police submitted charge-sheet only against co-accused Sibiya Devi, Sangeeta Devi, and Avanti Devi, and in Column-II of the final form, mentioned that investigation was



still pending against co-accused Kamal Dev Mahto, Raju Kumar Prasad @ Raju Prasad, and Chuhi Prasad @ Jitendra Kumar @ Jitendra Prasad. The Investigating Officer (I.O.) found no evidence against petitioners Raju Kumar Prasad @ Raju Prasad, and Chuhi Prasad @ Jitendra Kumar @ Jitendra Prasad and recommended prosecution under Sections 306/34 I.P.C. only against the three aforesaid female accused persons. However, the learned Judicial Magistrate, differing with the final form regarding the petitioners, took cognizance on 12.01.2015 (Annexure-5) against them along with the other accused persons. Learned counsel further submits that co-accused Sibiya Devi (wife of Kamal Dev Mahto), Sangeeta Devi, and Avanti Devi have already been granted bail by a Co- ordinate Bench of this Court *vide* order dated 28.09.2012 passed in Cr. Misc. No. 23854 of 2012. The case of the petitioners stands on the same footing as that of co-accused Sangeeta Devi, Avanti Devi, and Sibiya Devi. It is further submitted that the postmortem report reveals that only two minor ante mortem injuries on the anterior aspect of the knees (i) (1 cm × ½ cm) and (ii) (½ cm × ½ cm) caused by hard and blunt force, and opines that death was due to asphyxia as a result of drowning. Lastly, it has been submitted that the petitioners are poor



labourers who had gone to Delhi for their livelihood. When they returned to their village, the petitioner Chuhi Prasad @ Jitendra Kumar @ Jitendra Prasad in Cr. Misc. No. 22152 of 2025 was arrested on 12.01.2025 and has been in jail since then, while the petitioner Raju Kumar Prasad @ Raju Prasad, in Cr. Misc. No. 44441 of 2025 was arrested on 09.04.2025 and has also been in jail since then.

6. On the other hand, learned A.P.P. for the State has vehemently opposed the bail prayer and submitted that the petitioners are named as co-accused in this case. The FIR was lodged in they year 2012. The petitioner in Cr. Misc. No. 22152 of 2025 was arrested on 12.01.2025 and has been in custody since then, while the petitioner in Cr. Misc. No. 44441 of 2025 was arrested on 09.04.2025 and has also remained in custody. It is further submitted that, owing to the pendency of proceedings against them and their continued custody, the progress of the trial has been adversely affected and delayed.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioners in both the cases be released on bail upon furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the



learned J.M. 1st Class, Sherghati, Gaya in connection with Barachatti P.S. Case No. 142 of 2012 subject to the following conditions:- (i) that the petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the court below, (ii) that one of the bailors will be his own blood relation, preferably father, mother, brother, sister and or his wife, (iii) that the bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse (iv) that if the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail and (v) that the petitioner will appear before the SHO of concerned PS in the first week of each month till the framing of charge in this case.

8. The applications stand allowed.

(Khatim Reza, J)

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