

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83510 of 2024

Arising Out of PS. Case No.-363 Year-2024 Thana- BARUN District- Aurangabad

Mantu Kumar Son of Krishna Singh Resident of Village - Riur, P.S - Narari
Kala Khurd, District - Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 83221 of 2024

Arising Out of PS. Case No.-363 Year-2024 Thana- BARUN District- Aurangabad

Pawan Kumar Malakar @Pawan Kumar Son of Ganesh Malakar @ Ganesh
Bhagat Resident of village- Tetaria, PS-Narari Kala, District Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 83510 of 2024)

For the Petitioner/s : Mr. Y.C. Verma, Sr. Adv.

Mrs. Mukul Kumari, Adv.

For the Opposite Party/s : Mr. Anish Chandra, APP

(In CRIMINAL MISCELLANEOUS No. 83221 of 2024)

For the Petitioner/s : Mrs. Rupa Kumari, Adv.

For the Opposite Party/s : Mr. Umanath Mishra, Adv.

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

3 29-04-2025 Heard learned counsel for the petitioners, learned

Additional Public Prosecutor for the State and learned counsel

for the opposite party no. 2.

2. As both these bail applications have cropped up

from the same police station case number, hence, with consent

of parties, they are being heard together and disposed of by this

common order.



3. The petitioners are apprehending their arrest in a case registered for the offence punishable under Sections 103(1), 238, 3(5) of the B.N.S. respectively Sections 302, 201/34 of the Indian Penal Code.

4. The First Information Report discloses that the brother of the informant, who was into medical business, had gone to his shop on 11.08.2024 but did not come back. He could not be recovered even after search but it was disclosed by the three accused persons named in the FIR that the brother of the informant had come to the liquor shop but he was heavily intoxicated due to which they had dropped him near his house. Upon having such knowledge, the informant was going to file a missing complaint on 15.08.2024 but on the same day he got a phone call that the dead body of his brother has been recovered from the river.

5. Learned counsel for the petitioners submits that the names of three accused persons including the petitioners has been taken in the FIR on the basis of suspicion as these persons had disclosed that since they were also in the business of liquor, they had met the deceased on 11.08.2024. Besides suspicion, nothing else has been alleged in the FIR. Learned counsel for the petitioners submits that it would be apparent from the very



perusal of the First Information Report that though the deceased had gone missing on 11.08.2024 and even after the information about the dead body having been received 15.08.2024, the First Information Report was lodged on 16.08.2024 i.e. after a delay of 5 days without assigning any plausible reason. It has next been submitted that the dead body of the deceased was recovered from Punpun river and there is no material to indicate that it was the petitioners who committed the murder of the deceased and threw the dead body in the river. The attention of the Court has also been drawn towards the postmortem of the deceased which has been annexed as Annexure-P/2 as also is a part of the case diary which would go to show that the doctor has also opined that the death has been caused due to asphyxia as a result of antimortem drowning. There is no other injury on the body to show that the deceased was subjected to any assault etc.

6. Learned APP for the State and learned counsel for the opposite party no. 2 have opposed the application for anticipatory bail on the grounds that the petitioners are named in the First Information Report and their involvement has been suspected and the petitioner Pawan Kumar Malakar has criminal antecedent of one case in which he is on bail. The



materials collected during the course of investigation has also been pointed out to show that some dispute had taken place between the petitioners and the deceased few days earlier. However, there is no material to indicate that some dispute had occurred on the date of occurrence due to which the deceased was done to death by these petitioners. It is also a fact that one or two independent witnesses have given their statements after a lapse of more than three months that they had seen the petitioners coming from the side of the river on 11.08.2024. However, it does not stand to reason if there was any such suspicious activity noted on behalf of the petitioners then why the same was not reported earlier.

7. Considering the rival submissions of both the sides, it appears that the case has been filed only on suspicion with no substantial evidence to support the same moreover the postmortem report also does not support the case of any assault etc., let the above named petitioners in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, be enlarged 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 the learned court below where the case is pending/successor court in



connection with Barun P.S. Case No. 363 of 2024, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. and further conditions that:

(i) The petitioners shall cooperate in the investigation till the submission of charge-sheet/final report.

(ii) The court below shall verify the criminal antecedent of the petitioners and in case it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, it is expected that the verification process would be done expeditiously without causing any delay.

(Soni Shrivastava, J)

devendra/-

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

