

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44536 of 2019

Arising Out of PS. Case No.-13 Year-2019 Thana- KAMTAUL District- Darbhanga

1. Madan Yadav, son of Bhauji Yadav,
2. Anmol Yadav @ Amol Yadav, son of late Gudari Yadav, both resident of village- Dudhiya, P.S.- Kamtaul, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Syed Ashfaque Ahmad, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the Informant	:	Mr. Sanjeev Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 04-12-2019

Heard learned counsel for the petitioners and learned APP for the State and learned counsel for the informant, who has *suo motu* appeared.

2. The petitioners seek bail in connection with Kamtaul PS Case No.13 of 2019 dated 14.01.2019 instituted under Sections 147, 149, 341, 323, 307, 504, 506, 302 of the Indian Penal Code.

3. The petitioners along with eleven others are accused of assaulting the brother of the informant due to which he died.

4. Learned counsel for the petitioners submitted that right from the beginning there has been manipulation by the



informant's side. It was submitted that a bare perusal of the First Information Report of the present case would disclose that though the incident is said to have taken place on 03.01.2019, but such information was given to the police on 14.01.2019 by one Ram Babu Yadav, who gave a written statement on which the date is 10.01.2019. It was submitted that along with that written statement, there is also *fard beyan* of Bipin Kumar Yadav, which is dated 15.01.2019. Learned counsel submitted that in the First Information Report dated 14.01.2019, the presence of the *fard beyan* of Bipin Kuamr Yadav, dated 15.01.2019, itself shows that there has been manipulation. Learned counsel submitted that even otherwise, the incident taking place on 03.01.2019 and no First Information Report being filed till 14.01.2019 and even death having occurred after eleven days, the allegation against the petitioners stands falsified. Learned counsel submitted that the allegation against all the thirteen accused is general and omnibus of assault. He submitted that the incident had occurred at 1.30 AM on 03.01.2019, but the fact is that Vipin Kumar Yadav and Vishwa Mohan Yadav, along with others had entered into the house of Kailash Yadav with intention to kill and rob him, but on cry raised they had fled away and Vishwa Mohan Yadav was caught



and assaulted by the villagers and he was also handed over to the police in presence of the local *Sarpanch* for which Kamtaul PS Case No.05 of 2019 was also instituted on 04.01.2019 itself. It was submitted that due to such injury caused by the assault of the villagers, Vishwa Mohan Yadav, who is deceased in the present case, died after eleven days of such assault.

5. It was further submitted that the petitioners are in custody since 21.01.2019 and initially, the police had not sent up the petitioners for trial, but because of the protest lodged by the informant, on no valid ground, charge sheet has been submitted.

6. Learned APP, from the case diary, and learned counsel for the informant submitted that the First Information Report was lodged belatedly due to both the informant and the deceased undergoing treatment in the hospital which does not falsify the prosecution case. It was submitted that the petitioners were also part of the mob, which assaulted the deceased. However, on a direct query of the Court with regard to explanation for discrepancies in the First Information Report itself and the delay caused, no satisfactory reply was forthcoming.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let



the petitioners be released on bail upon furnishing bail bond of Rs.25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the SDJM, Darbhanga, in Kamtaul PS Case No.13 of 2019. The petitioners and the bailors shall execute bond with regard to good behaviour of the petitioner. The petitioners shall cooperate in the trial. Failure to do so shall lead to cancellation of their bail bonds.

8. The application stands disposed off.

(Ahsanuddin Amanullah, J)

J. Alam/-

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