

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 16543 of 2020

=====

1. Humayun, aged about 41 years, male, Son of Abdul Salam.

2. Shahnawaz, aged about 20 years, male, Son of Humayun.

Both R/o Village- Maltipur, P.S.- Amdabad, District- Katihar.

.....Petitioner/s

Versus

The State of Bihar

.....Opposite Party/s

=====

Appearance:

For the Petitioner/s : Mr. Rama Kant Sharma, Sr. Adv.

For the informant : Mr. Binod Kumar, Adv.

For the State : Dr. Ajeet Kumar, APP

=====

CORAM : HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

04/- 14.07.2020

Heard Mr. Rama Kant Sharma, learned Senior Advocate for the petitioners and Mr. Binod Kumar, learned counsel for the informant. The State is represented by Dr. Ajeet Kumar, learned Additional Public Prosecutor.

The petitioners seek bail in connection with Sessions Trial No. 05/2020 arising out of Amdabad P.S. Case No. 142 of 2019, dated 22.08.2019, which was initially instituted for : Sections 341, 323, 324, 307, 504 and



379/34 of the Indian Penal Code but later, with the death of one of injured persons, Section 302 of the Indian Penal Code was also added.

It has been submitted on behalf of the petitioners that from the perusal of the F.I.R. itself, it would appear that there was land dispute between the parties and, therefore, the occurrence is said to have taken place. The allegations attributed against the petitioners are of general and omnibus in nature and nothing specific has been alleged against them. The allegations are not borne out by the *postmortem* report.

The petitioners are stated to be in custody since 07.11.2019.

It has further been submitted on behalf of the petitioners that they shall face the trial and shall not absent themselves from the trial proceedings without seeking prior permission from the Trial Court.

As opposed to the aforesaid contention, learned counsel for the informant has submitted that two persons who have been named accused in this case though have been granted bail, which fact has been brought on record by way of supplementary affidavit, but their cases are different from that of the petitioners. One of the persons who has been granted bail is 17 years of age, whereas the other is a non-F.I.R. accused. It has further been submitted that the bail granted to the aforesaid two accused persons cannot come to the rescue of the petitioners who are alleged to have brutally assaulted the deceased leading to his death. It has also been submitted that since the trial has begun, it would be better that a direction be given to expedite the trial rather than grant bail to the petitioners.



The counsel for the State has also supported the arguments advanced on behalf of the informant.

However, looking at the facts of the case, the nature of accusation and the attendant circumstances including the fact that the petitioners are related to the informant and there is a property dispute between them, this Court, keeping in mind the period of custody of the petitioners, deems it appropriate to grant bail to them during the pendency of the trial.

The petitioners above-named are directed to be released on bail on their furnishing bail-bonds in the sum of Rs. 10,000/- (rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Addl. Sessions Judge-V, Katihar in connection with Sessions Trial No. 05/2020 arising out of Amdabad P.S. Case No. 142 of 2019.

However, the petitioners are directed to be present in the trial proceedings without fail. Their absence from the trial proceedings on two consecutive occasions, without prior approval of the Trial Court, shall render their bail liable to be cancelled. In case, the petitioners are found tampering with the evidence or of obstructing/impeding the pace of the trial, it would be open for the prosecution/informant to approach the Trial Court for cancellation of bail of the petitioners. In case such a petition is filed, the Trial Court shall entertain the same and if it is found that the petitioners are causing any difficulty in the pace of the trial, the Trial Court shall immediately cancel the bail of the petitioners and shall proceed in the matter, after giving them notice to respond to the allegations.



With the aforesaid observation/direction, the application stands disposed
off.

(Ashutosh Kumar, J.)

Praveen-II/-

U T

