

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.22826 of 2020**

Arising Out of PS. Case No.-56 Year-2020 Thana- BUNIYAD GANJ District- Gaya

1. NAND LAL TANTI Son of Mahesh Ram Tanti Resident of Village - Manpur, P.S.- Buniyadganj, District - Gaya.
2. Raj Kumar Son of Nandlal Tanti Resident of Village - Manpur Shivcharan Lane, P.S.- Buniyadganj, District - Gaya.
3. Pankaj Kumar Son of Nandlal Tanti Resident of Village - Manpur Shivcharan Lane, P.S.- Buniyadganj, District - Gaya.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.P.K. Shahi, Sr. Advocate
For the Informant	:	Mr. Kamlesh Kumar, Advocate
		Mr. Kahkasa Alam, Advocate
For the State	:	Mr. Akhileshwar Dayal, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 05-11-2020 Learned counsel for the petitioners undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

At the outset, learned Senior Counsel for the petitioners submits that the name of petitioner no. 2 has been wrongly typed in the petition as Raj Kumar, for which a supplementary affidavit has been filed.

In the aforesaid view of the matter, let the name of petitioner no. 2 be read as Raja Kumar @ Raja Babu.

Heard learned Senior Counsel for the petitioners, learned counsel for the informant and Mr. Akhileshwar Dayal, learned A.P.P. for the State.



Petitioners, in the present case, are seeking pre-arrest bail in connection with Buniyadganj P.S. Case No. 56 of 2020 registered for the offences under Sections 448, 341, 323, 307, 34 of the I.P.C. and later on Section 302 of the I.P.C. has been added, pending in the court of learned A.C.J.M – VIII, Gaya.

In paragraph '3' of the application it is stated that petitioners have got one criminal antecedent being Buniyadganj P.S. Case No. 70 of 2018, in which they are on bail.

As per the prosecution story giving rise to the present case, the petitioners along with two unknown persons forcibly entered into the house of the informant carrying Lathi, Hockey Stick and stones and they started verbally abusing the informant. On seeing this the father of the informant came there but he was assaulted by these petitioners due to which father of the informant started vomiting from his nose and mouth and then fainted. He was taken to Hospital, he had suffered brain hemorrhage and later on in course of treatment at Patna he died.

Learned Senior Counsel for the petitioners submits that it is a case of false implication as it would appear that the informant himself was in police custody on 25.04.2020. Prior to the present case the petitioner no. 2 had lodged Buniyadganj P.S. Case No. 54/2020 in respect of the occurrence which had taken place at about 7.30 PM on 25.04.2020. In said F.I.R. it was



alleged that the informant of this case was in drunken condition, he had gone to the place of petitioner no. 2 and had abused him taking his caste name and had also indulged in causing assault to the petitioner no. 2. It is in connection with this Buniyadganj P.S. Case No. 54/2020 that the informant had been taken in custody and therefore the very F.I.R. lodged by the present informant becomes doubtful.

Learned Senior Counsel further submits that in course of investigation, it has come that both the parties are close door neighbours and they had dispute over right to way (Rasta) and it is because of this they had indulged in the occurrence which had taken place on 25.04.2020 at 7.30 PM. It is further stated that the Investigating Officer has, in course of investigation of the case, recorded the statement of the victim/deceased who had stated before police that when his son was being assaulted by the petitioners he had gone there but then he was also assaulted, the submission is that both the parties have indulged in the alleged occurrence over right to way and there was no intention to kill the father of the informant, moreover the allegations are not specific, in the given circumstances the petitioners deserve privilege of anticipatory bail as no case under Section 302 I.P.C. may be made out.

It is further pointed out by learned Senior Counsel that



the alleged occurrence had taken place on 25.04.2020 whereas the death had taken place on 09.05.2020.

On the other hand, learned counsel representing the informant as well as learned A.P.P. for the State have jointly opposed the prayer for anticipatory bail of the petitioners. Learned counsel submits that in course of investigation independent witnesses have supported the prosecution case and all of them have stated that these petitioners had participated in assaulting the father of the informant who had ultimately succumbed to the injuries. Post mortem report also shows injuries on the vital part of the body and there are multiple injuries which suggest that these petitioners had caused assault on the father of the informant. It is then submitted by learned counsel for the informant that the father of the informant was brought to Patna on the same day and he was treated but in course of treatment he died. On the point of the informant being in police custody learned counsel for the informant submits that when the informant had gone to lodge the F.I.R., he was taken in custody but the F.I.R. was lodged on the same day.

In the given facts and circumstances learned counsel for the informant as well as learned A.P.P. submits that this being an application for grant of anticipatory bail, the petitioners are unable to make out any ground to grant them the privilege of anticipatory



bail.

Having regard to the facts and circumstances of the case wherein this Court has noticed that in the F.I.R. as well as in the statement of the witnesses in course of investigation it has come that all these petitioners had actively participated in the alleged occurrence in which father of the informant was assaulted, he suffered multiple injuries, injury on the vital part of the body (head) and ultimately he succumbed to the injuries, the seriousness of the offences alleged and the materials available on the record are such that this Court is not inclined to grant privilege of anticipatory bail to the petitioners.

The prayer for anticipatory bail of the petitioners is, thus, refused.

In case, petitioners surrender and pray for regular bail in the court below within a period of four weeks from today, their prayer for regular bail shall be considered by the court below on their own merit without being prejudiced by the order of this Court.

The observation with regard to surrender in the court below within a period of four weeks shall not be construed as granting any interim protection to the petitioners for the aforesaid period.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

