

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.27706 of 2020**

Arising Out of PS. Case No.-18 Year-2020 Thana- LAKHISARAI District- Lakhisarai

1. RAJU YADAV S/o Late Basant Yadav Resident of Village-Jainagar, Bari Kabaiya, Police Station-Kabaiya, District-Lakhisarai.
2. Sanjay Yadav S/o Late Basant Yadav Resident of Village-Jainagar, Bari Kabaiya, Police Station-Kabaiya, District-Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Sanjay Kr. Singh, Adv.

For the Opposite Party/s : Mr.A.G

For the Informant Mr. Rajnish Chandra, Adv.

**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL ORDER**

2      19-10-2020                      Heard learned counsel for the petitioners, learned APP for the State and learned counsel for the informant, through video conferencing.

The petitioners have filed the instant application for grant of regular bail in connection with Lakhisarai (Kabaiya) P.S. Case No. 18 of 2020 registered under sections 302 and 34 of the Indian Penal Code.

As per allegation in the FIR, over an altercation between the informant and the accused persons, it is stated that the accused persons started to abuse the informant as also his father and started to assault them. The brother-in-law of the accused persons also joined them and all of them together



caught hold of the informant's father, took him to the ground, sat on his chest and started to strangle him. It is further stated that on the informant coming to his father's rescue, he was assaulted with bricks, stones etc. His father was subsequently taken to the hospital, where he was declared as brought dead.

It is submitted by learned counsel for the petitioners that the allegations as levelled in the FIR are false and concocted. It is submitted that three persons are stated to have assaulted the father of the informant and they were armed with bricks, stones etc.. From the postmortem report of the father of the informant, which is Annexure-2 to the petition, no antemortem injury has been found over the body or the neck. The cause of death in the opinion of the doctor is myocardial infraction due to ischemic heart muscle. It is thus, submitted that the father of the informant died in a manner other than as narrated in the FIR and the petitioners have been falsely implicated in this case.

The application for bail is opposed by learned APP for the State and learned counsel for the informant.

It is submitted by learned counsel for the informant that the assault by the petitioners have been supported by the



witnesses and the ocular evidence would have priority over the medical evidence as has been decided in the case of Sunil Kundu vs State of Jharkhand. It is further submitted that heart attack may have taken place as a result of pressing of neck and sitting on chest by the accused persons and the report of the postmortem may be collusive.

Having heard learned counsel for the parties and taking into consideration that the petitioners are in custody since 11.6.2020, investigation in the case has concluded together with the contents of the postmortem report (Annexure-2) wherein no injury or mark has been found on the body or neck and the cause of death is stated to be myocardial infarction, the Court is inclined to enlarge the petitioners on bail. The above named petitioners are directed to be enlarged on bail in connection with Lakhisarai (Kabaiya) P.S. Case No. 18 of 2020 on each of them furnishing bail bond of Rs.10,000/ (Rupees ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Lakhisarai.

**(Partha Sarthy, J)**

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