

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 30437 of 2020

Arising Out of PS. Case No.-38 Year-2020 Thana- ABADPUR District- Katihar

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1. RABBANI @ GULAM RABBANI @ MD RABBANI Son of Late Rabul Resident of Village - Chhogra, P.S.- Abadpur, District - Katihar.
 2. Reazul @ Rezaul Haque Son of Late Sharif Resident of Village - Nalsar, P.S.- Abadpur, District - Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Bhola Prasad, Advocate

For the Opposite Party/s : Mr Bal Mukund Pd, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 24-11-2020 As of now, the Courts have not resumed normal physical hearing. The matter has been listed today for consideration through Video Conferencing.

Learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings with the aid of audio visual technology.

Learned counsel for the petitioners submits that the case is one under Sections 304/34 of Indian Penal Code (for brevity, *IPC*). Due to typographical inadvertent error, the same has wrongly been mentioned as Sections 302/34 of IPC in paragraph 1 of the petition.



Heard learned counsel for the petitioners.

Mr Bal Mukund Prasad, APP is appearing as it is submitted that the brief has been allotted to him by the Office of Advocate General.

The petitioner seeks bail in Abadpur Police Station (for brevity, *PS*) Case No 38 of 2020 instituted for the offence punishable under Sections 304/34 of IPC.

The prosecution case is that the informant's brother was summoned by his wife to his in-laws' house for taking away his bicycle. There, it is alleged that he was beaten by the petitioners along with other accused persons by means of stick. Thereafter, he has returned home and has passed away on 03.05.2020.

Petitioners' counsel submits that as per prosecution case, he was beaten on 30.04.2020, he passed away on 03.05.2020, however, the first information report has been instituted on 04.05.2020. This delay is indicative of the falsity of the allegations. The fact is that the victim had earlier been operated upon and had fallen down in his house where after he died. Petitioner No 1 is 80% handicapped as per certificate (Annexure 2) of this petition and is aged about 62 years. Petitioner No 2, who was not even present at the village on the



alleged date, has also been falsely implicated. Both the petitioners are in custody since 05.05.2020, having no criminal antecedent. Informant is not an eye witness to the occurrence.

The learned APP for the State has opposed the prayer for bail.

Considering the rival submissions, prayer for bail is allowed. Let the petitioners, above named, be released on bail on each of them furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Judicial Magistrate, 01st Class, Katihar in Abadpur PS Case No 38 of 2020 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioners who will give an affidavit giving genealogy as to how he is related with the petitioners. The bailor will also undertake to inform the Court if there is any change in the address of the petitioners.

(ii) That the petitioners will be well represented on each date and if they fail to do so on two consecutive dates, their bail bond will be liable to be cancelled.

Learned counsel for the petitioners is expected to honour his undertaking given in the instant proceedings today



for depositing requisite Court fee and removing the defect (s), as
pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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