

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.13545 of 2021**

Arising Out of PS. Case No.-313 Year-2020 Thana- GHOSI District- Jehanabad

1. SUDAMA KEWAT Son of Late Gorakh Kewat Resident of Village - Chunukpur, P.S.- Ghosi in the district of Jehanabad.
2. Ravis Kumar Son of Sudama Kewat Resident of Village - Chunukpur, P.S.- Ghosi in the district of Jehanabad.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Sunil Kumar, Advocate
For the Informant	:	Mr. Pramod Kumar, Advocate
for the State	:	Mr. Anita Kumari Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

- 3 04-09-2021 Heard learned counsel for the petitioners, Mr. Pramod Kumar, learned counsel for the informant and Ms. Anita Kumari Singh, learned A.P.P. for the State.

Petitioners, in the present case, are seeking regular bail in connection with Ghosi P.S. Case No. 313 of 2020 registered for the offence under Section 302/34 of the Indian Penal Code. They are in custody since 27.07.2020.

As per the prosecution story, the son of the informant who was having some mental illness and was under treatment left his house in the village at 9:00 P.M. He entered in the house of the petitioners and was caught there by the petitioner no.1 alleging that he had entered with an intention

to commit theft. He was assaulted in the house of the petitioners, their family members as also the neighbours who are named in the F.I.R. The son of the informant was tied with rope and had been assaulted by Lathi-Danda as a result whereof he suffered several injuries, whereafter police was called and he was taken to hospital but in course of treatment he died on the subsequent day.

Learned counsel for the petitioners submits that son of the informant was involved in commission of theft and he had one case in which he had gone to jail and had been released on bail. It is his submission that when he entered inside the house, he was caught and assaulted by large number of villagers. The petitioner no. 1 called the police station and then handed over the son of the informant to police, he was taken to hospital where he died.

It is submitted that the co-accused Kunal Kewat has been granted bail by learned coordinate Bench of this Court in Cr. Misc. No. 16899/2021.

On the other hand learned counsel for the informant as well as learned A.P.P. for the State have opposed the prayer for bail of the petitioners. It is submitted that son of the informant was mentally disturbed, there is no allegation that

he was armed with any weapon and is in mental illness even if he had entered inside the house of the petitioners and had been overpowered by the petitioner no. 1 and his son (petitioner no. 2), there was no reason for them to assault the son of the informant so brutally which has resulted in his death.

Learned counsel submits that in fact that there was no weapon in his hand to go a long way to suggest that there were assaults out of proportion which was not proved and all these things happened inside the house of the petitioner no. 1. Police has recovered the rope and Danda which were used in causing assault upon the son of the informant from the house of petitioner no.1.

It is, thus, his submission that the case of the petitioners is distinguishable from that of the co-accused who has been granted bail.

Considering the facts and circumstances of the case particularly that the son of the informant was without any weapon, he had been overpowered, he was assaulted inside the house of petitioner no. 1 so brutally that ultimately he died, there is recovery of rope and Danda from the house of the petitioner no. 1, thus, this Court is not inclined to release

the petitioner no. 1 on bail at this stage.

Prayer for regular bail of petitioner no. 1 is, thus, refused.

So far as petitioner no. 2 is concerned, he happens to be the son of petitioner no. 1 and finding that he is only 18 years old as stated in the petition and he was not in control of the house, he may be treated as similarly situated with the co-accused Kunal Kewat who has been granted bail, hence this Court directs release of petitioner no. 2 above-named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Jehanabad in connection with Ghosi P.S. Case No. 313 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner no.2 and in case at any stage it is found that the petitioner no.2 has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner no. 2. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the

name of verification.

Let the trial be expedited.

If the trial is not concluded within a period of nine months for no reason attributable to petitioner no. 1, he may renew his prayer for bail.

(Rajeev Ranjan Prasad, J)

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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'.