

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.19490 of 2021**

Arising Out of PS. Case No.-197 Year-2020 Thana- KHANPURA District- Samastipur

1. VIRENDRA RAM Son of Ram Swarup Ram Resident of Village- Kariyan (Karian), Police Station- Rosara, District- Samastipur.
 2. Vipin Ram @ Bipin Kumar Ram Son of Munni Ram Resident of Village- Kariyan, (Karian), Police Station- Rosara, District- Samastipur.
 3. Jitendra Ram @ Jitendra Kumar Ram Son of Late Sagar Ram Resident of Village- Kariyan, (Karian), Police Station- Rosara, District- Samastipur.
- Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Md. Mushtaque Alam
For the Opposite Party/s : Mr.Aditya Narayan Singh.1

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

3 08-10-2021 Heard learned counsel for the petitioners and Mr. Aditya Narayan Singh 1, learned APP for the State.

The petitioners in the present case are seeking regular bail in connection with Khanpur P.S. Case No. 197 of 2020 registered for the offences punishable under Sections 364, 120B of the Indian Penal Code and later on Section 302/201 IPC was also added. They are in custody since 24.11.2020. The petitioners have got one criminal antecedent under Bihar Prohibition and Excise Act, 2016.

As per the prosecution story, the parents of the informant went to the temple for worshipping Mataji. After performing puja when they were returning to their home and



reached near the house of one Chaudhary complex, the father of the informant asked the mother of the informant to go ahead and he told her that he would come back soon. After this the mother of the informant came back but the father did not return. His mobile phone was coming off. The informant lodged the FIR when his father was missing. On the next date after lodging FIR, the dead body was found near the house of one Vivek Kumar of village Senhurwa. These petitioners have been taken on remain in the present case after there arrest in connection with Khanpur P.S. Case No. 198 of 2020.

Learned counsel for the petitioner submits that so far as these petitioners are concerned, there is absolutely no material against them save and except the mere suspicion and the confessional statement extracted in police custody which is not admissible in evidence.

Learned counsel further submits that as per the confessional statement extracted in police custody one Sanjay Kumar had stabbed on the head of the deceased (Ganesh Singh). The said Sanjay Kumar has been granted bail by a learned Co-ordinate Bench of this Court in Cr. Misc. No. 13297 of 2021.

It is his further submission that according to the confessional statement of petitioner no. 2, he along with



petitioner nos. 1 and 3 had pressed the mouth of the deceased but this is not getting support from the inquest report and the post-mortem report as no injury has been found on the mouth area and further that the cause of death is not by throttling or asphyxia caused due to hindrance in taking breathe.

Learned APP for the State has though opposed the prayer for bail of the petitioner but after going through the medical examination report, learned APP informs this Court that no injury has been found on the mouth area or there is no opinion that the death has been caused due to asphyxia. It is also not disputed that the main accused as per the confessional statement has been granted bail by a learned Co-ordinate Bench of this Court.

Considering the facts and circumstances of the case wherein though the allegation is under Section 302 IPC but the materials collected in course of investigation are not getting corroboration from the independent materials and save and except the confessional statement there is no other material on the record as also that co-accused has already been granted bail and these petitioners have remained in jail for about one year and investigation against them is complete, in the circumstances, this Court directs release of the petitioners on



bail on furnishing bail bonds of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Samastipur in connection with Khanpur P.S. Case No. 197 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 petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. 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.

The application stands allowed.

(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'.

