

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.17909 of 2021**

Arising Out of PS. Case No.-74 Year-2020 Thana- RAGHOPUR District- Vaishali

1. Randhir Rai Son Of Shri Ram Sowarath Rai @ Ramaswarth Ray R/O Village- Mohanpur, P.S.- Raghobpur, District- Vaishali.
2. Bhullu Rai Son Of Shri Ram Sowarath Rai @ Ramaswarth Ray R/O Village- Mohanpur, P.S.- Raghobpur, District- Vaishali.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Ajay Kumar Thakur,Advocate Mr.Udbhav,Advocate
For the Opposite Party/s	:	Ms.Renuka Ratnakar,APP
For the Informant	:	Mr.Arun Kumar Pandey,Advocate

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

3 24-09-2021 Heard learned counsel for the petitioners, learned counsel for the informant and Ms. Renuka Ratnakar, learned APP for the State.

The petitioners in the present case are seeking regular bail in connection with Raghobpur P.S. Case No. 74 of 2020 registered for the offences punishable under Sections 147, 149, 448, 341, 323, 307, 302 of the Indian Penal Code. They are in custody since 07.09.2020. Petitioners have otherwise no criminal antecedent.

As per the prosecution story, altogether 8 named accused persons had indulged in the alleged occurrence on account of a land dispute with the informant's side. It is alleged that in the said occurrence the petitioners' side assaulted one of the brothers

of the informant namely Arjun Rai who later on succumbed to his injuries and died. The informant and his two other brothers were also assaulted and they claimed to have suffered injuries.

Learned counsel for the petitioners submits that so far as the allegation of assault given to the deceased Arjun Rai is concerned, the same is general and omnibus kind of allegations against all the named accused persons. It is his submission that in course of post mortem of the deceased, superfluous injuries like 5 abrasions and 3 scratches have been noticed by the doctor but the fatal injury has been found on the head which caused death.

Learned counsel submits that there is only one head injury and there is no specific allegation against any of the accused in the FIR, thus, in his submission it is a case of over-implication of the accused due to land dispute.

Learned counsel further submits that there is a counter version of the case which would be evident from the FIR lodged by the petitioners' side and it would appear from the materials present that the petitioners' side has suffered injuries and at least out of two persons who have suffered injuries, in respect of one of them injury has been found grievous in nature.

Learned counsel further submits that although the informant claims that he and his two brothers received injuries but till filing of the chargesheet no injury report of the informant or his

brothers were available with the chargesheet, therefore, the allegations are not substantiated on this score.

Learned counsel for the informant has opposed the prayer for bail of the petitioner and has repeated the submissions on behalf of the prosecution case, however, on specific query made by this Court learned counsel for the informant accepts that there is a counter case of the present occurrence and the petitioners' side has also suffered grievous injury, so far as the death of the informant's brother is concerned, it has resulted due to head injury suffered by him and this is stated in the post mortem report. Learned counsel for the informant further accepts that no injury report of the informant or his other two brothers are available with the chargesheet.

Considering the facts and circumstances of the case and the submissions noted hereinabove, there being general and omnibus allegations with respect to assault on the deceased and the only head injury which has proved fatal to his life is not specifically alleged against these petitioners, there being no other injury report, this Court is inclined to accept the submission that it may be a case of over-implication, thus considering that the petitioners have otherwise no criminal antecedent and they have remained in jail since 07.09.2020, investigation against them is complete, this Court directs release of the petitioners above named

on bail on furnishing of 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 Additional Chief Judicial Magistrate IX, Hajipur at Vaishali in connection with Raghapur P.S. Case No. 74 of 2020, subject to the conditions as laid down under Section 437(3) Cr.P.C.

And 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'.