

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.18306 of 2021**

Arising Out of PS. Case No.-602 Year-2020 Thana- BRAHMPUR District- Buxar

1. Vijay Kumar Goswami, Son of Ajay Goswami, R/O Village- Harkhahi Mathia, P.S- Krishna Braham Dist- Buxar
2. Chhotu @ Aashutosh Giri, Son of Parmatma Giri, R/O Village- Harkhahi Mathia, P.S- Krishna Braham Dist- Buxar
3. Raj Kumar Giri, Son of Suresh Giri, R/O Village- Harkhahi Mathia, P.S- Krishna Braham, Dist- Buxar

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Roy, Advocate

For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, A.P.P.

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

4 25-08-2021 Learned counsel for the petitioners undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioners and Mr. Mritunjay Kumar Nirala, learned A.P.P. for the State.

Petitioners, in the present case, are seeking regular bail in connection with Brahampur (Krishna Braham) P.S. Case No. 602 of 2020 registered for the offence punishable under Section 324, 302, 201, 120(B) of the Indian Penal Code. They are in custody since 21.11.2020.

Learned counsel for the petitioners submits that from

the First Information Report itself it would appear that the son of the informant was called on his mobile by some one whereafter he left his house in the night hour but did not return home. On the next day his dead body was found at a distance of around 300-400 meters lying in an orchard. The son of the informant was killed by sharp cutting weapon.

Learned counsel submits that so far as these three petitioners are concerned, their names have transpired in the confessional statement of the co-accused Sanoj Kumar who has already been granted bail by a learned coordinate Bench of this Court in Cr. Misc. No. 19291 of 2021.

Learned counsel submits that save and except the confessional statement extracted in Police custody there is no other material against the petitioners. No witness is available in the case diary to say that these petitioners were seen with the co-accused Sanoj Kumar. Petitioners have otherwise no criminal antecedent.

Learned A.P.P. for the State has though opposed the prayer for bail of the petitioners but after going through the case diary he does not dispute the above submission of learned counsel for the petitioners.

In the facts and circumstances of the case stated hereinabove where this Court has noticed that except the confessional statement of the co-accused and the petitioners

allegedly extracted in Police custody no other material is there to connect these petitioners and the co-accused has already been granted bail, this Court directs release of the petitioners above named on bail on furnishing bail bond 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, Buxar in connection with Brahampur (Krishna Braham) P.S. Case No. 602 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.

At this stage, Mr. Mritunjay Kumar Nirala, learned A.P.P. for the State has made a request to this Court that his name be also recorded in the body of the order. On asking the reason as to why this is required once his presence is recorded and his name will be indicated at the top of the ordersheet showing “Appearance”, not only the learned A.P.P. appearing in this case rather a number of A.P.Ps. present in the Court online have

informed this Court that sometimes objections are raised with regard to their bills if the names are not dictated in the body of the order.

Although this Court is not sitting in an appropriate jurisdiction to issue any direction to the State in this regard but the Court feels that the A.P.Ps., being Officers of the Court, have brought something very significant to be taken note of and this Court takes cognizance of what has been brought to the notice of this Court. This Court is of the considered view that once appearance of an Advocate is shown in the ordersheet, the same has to be accepted unless otherwise appears from the order.

Learned Advocate General is requested to look into this aspect and issue appropriate directions to the concerned persons dealing with such matters so that in case the name of the A.P.Ps. is/are not indicated in the body of the order that should not cause any prejudice to him/them.

Let a copy of this order be sent to the office of the Advocate General, Bihar as well as to the Law Secretary, State of Bihar for necessary action.

(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'.