

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12042 of 2021

Arising Out of PS. Case No.-397 Year-2020 Thana- HAJIPUR District- Vaishali

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1. GAURAV KUMAR S/o Raj Ballabh Singh Resident of Village- Minapur, Kharadi Tola, Ward No. -33, P.S.- Hajipur Town, District- Vaishali.
 2. Saurav Kumar S/o Raj Ballabh Singh Resident of Village- Minapur, Kharadi Tola, Ward No. -33, P.S.- Hajipur Town, District- Vaishali.
 3. Bulbul Kumari @ Versha Singh D/o Raj Ballabh Singh Resident of Village- Minapur, Kharadi Tola, Ward No. -33, P.S.- Hajipur Town, District- Vaishali.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s	:	Mr.Mahendra Thakur, Adv.
For the Opposite Party/s	:	Mr. Md. Aslam Ansari, APP
For the Informant	:	Mr. Nachiketa Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 24-03-2021 Heard Mr. Mahendra Thakur, learned counsel for the petitioners and Mr. Nachiketa Jha, learned counsel for the informant. The State is represented by Mr. Md. Aslam Ansari, learned APP.

The petitioners, who are brothers and sister amongst themselves seek bail in anticipation of their arrest in connection with Hajipur Town P.S. Case No. 397 of 2020 which was initially instituted for the offence under Sections 147, 148, 341, 323 and 307 of the Indian Penal Code but



with the death of the deceased Section 302 of the Indian Penal Code was added.

It has been alleged in the First Information Report by the wife of the deceased that all the accused persons including the petitioners came to the house of the informant and no sooner did the deceased alight from his motorcycle to enter his house, he was assaulted by the accused persons leading to his death.

Learned counsel for the petitioners has submitted that the entire family of co-accused Raj Ballabh Singh has been made accused in this case. There is a background of enmity between the parties. Apart from this, it has been submitted that there is general and omnibus allegation against all the accused persons of this case including petitioners and with such an allegation, it cannot at all be discerned whether the petitioners could be saddled with the charge of murder in the case. He has further referred to the postmortem report which indicates that the deceased had suffered four injuries none of which are on the vital parts of the body but somehow or the other, the Doctor who had



conducted the postmortem has opined that the death was on account of the above noted injuries.

Learned counsel for the petitioners has also submitted that petitioner nos. 1 and 2 are the students of intermediate whereas, the petitioner no. 3 is the minor daughter of the co-accused Raj Ballabh Singh with whom the deceased had enmity from before.

As opposed to the afore-noted arguments, Mr. Nachiketa Jha, learned counsel for the informant has submitted that in a case of this kind, one ought not to look for the individual act of assault of the accused persons. It was a premeditated attack on the deceased in which all the accused persons had participated. Apart from this, it has been submitted that in one of the cases filed between the parties, petitioner no. 1 was also made an accused but this fact has deliberately been omitted in paragraph -3 of the bail petition. He further submits that the injuries suffered by the deceased may not be on the vital parts of the body but because of multiple fractures, it cannot be said that the death in such cases are unknown. He, therefore, submits



that the petitioners do not deserve anticipatory bail.

After having heard the learned counsel for the parties, this Court is of the view that even in the background of enmity between the parties and general and omnibus allegation against all the accused persons, the petitioner nos. 1 and 2 do not deserve to be granted anticipatory bail as they have participated in the assault.

Their prayer for grant of anticipatory bail is rejected.

However, if they surrender before the court below and seek bail, the court below shall look into the entire set of facts and shall also consider the additional fact that one of the co-accused persons of this case, namely, Raj Ballabh Singh has been granted bail by a Bench of this Court and shall pass orders in accordance with law without being prejudiced by the fact that the present petition on their behalf has not been entertained.

However, with respect to petitioner no. 3, this Court is of the view that considering the gender of the petitioner no. 3 and her being a person of tender age, she



deserves to be enlarged on anticipatory bail and that also when all her family members have been made accused in this case.

Considering the afore-mentioned facts, the petitioner no. 3 / Bulbul Kumar @ Versha Singh, is directed to be released on bail, in the event of her arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Vaishali at Hajipur, in connection with Hajipur Town P.S. Case No. 397 of 2020, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Ashutosh Kumar, J)

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