

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.23392 of 2021**

Arising Out of PS. Case No.-317 Year-2020 Thana- MADHEPURA District- Madhepura

1. RABEN YADAV @ RABEAN YADAV Son of Late Kamleshwari Yadav Resident of Village - Gandhinagar, Ward No.2, P.S.- Madhepura, Dist.- Madhepura.
2. Babul Kumar @ Bulbul Son of Raben Yadav Resident of Village - Gandhinagar, Ward No.2, P.S.- Madhepura, Dist.- Madhepura.
3. Ashish Kumar @ Ashok Kumar Son of Shailendra Yadav Resident of Village - Gandhinagar, Ward No.2, P.S.- Madhepura, Dist.- Madhepura.

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Dinesh Prasad Verma, Advocate
For the Opposite Party/s	:	Mr. Nand Kumar, APP
For the Informant	:	Mr. Kuldeep Kumar, Advocate

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

3 31-08-2021 Learned counsel for the petitioners undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioners, learned counsel for the informant and Mr. Nand Kumar, learned APP for the State.

At the outset learned counsel for the petitioners has submitted that he has filed a supplementary affidavit stating that petitioner No. 1 and 2 have got one criminal antecedent and they are on bail in the said case whereas petitioner No. 3 has got no criminal antecedent.

Petitioners in the present case are seeking regular bail in

connection with Madhepura (Bharrahi) P.S. Case No. 317 of 2020 registered for the offences punishable under Section 302, 120 B of Indian Penal Code and 27 of the Arms Act.

As per the prosecution story the deceased Navin Kumar @ Aditya Anand happened to be the nephew of the informant. He was sleeping in the newly constructed house on 24-25/4/2020. At about 2.30 am informant heard a sound but he thought that it is coming from outside so he again slept. In the morning at about 4.30 am he found that his nephew was lying on bed in dead condition and was bleeding. This was informed to the neighbors. It is alleged that the informant has got enmity with the petitioner No. 1 from before and his family members were threatening the informant's side. The informant claim in the FIR that co-accused Shailendra, Ashok Kumar, Shrawan, Pawan Kumar, Jitendra Yadav and Raushan Kumar who happened to be the brother-in-law of Pawan have conspired and killed his nephew.

Learned counsel submits that in the First Information Report though there is an allegation that the informant had an enmity with the family of petitioner No. 1 but there is no specific allegation that petitioner No. 1 had ever threatened the informant's side. Allegation of giving threat are against the co-accused.

Learned counsel further submits that the case is based on mere suspicion and after considering the materials particularly that there was a land dispute between the parties which was settled on

compromise in Title Suit No. 30 of 2016, a learned coordinate Bench of this Court granted bail to co-accused Shailendra in Cr. Misc No. 5501 of 2021 and thereafter this Court had granted bail to Raushan, Sharvan and Jitendra in Cr. Misc No. 8846 of 2021.

It is further informed that the post-mortem report shows only one firearm injury on the body of the deceased.

On the other hand learned counsel for the informant as well as Mr. Nand Kumar, Learned APP have opposed the prayer for bail of the petitioners. It is submitted that so far as petitioner No. 1 and 3 are concerned they are named in the FIR and name of the petitioner No. 2 has transpired in course of investigation.

Considering the facts and circumstances of the case, wherein this Court has noticed that there is no eye witness to the alleged occurrence which had taken place at 2.30 am (mid night) and one injury has been found on the body of the deceased whereas altogether seven persons are named in the FIR, co-accused similarly situated have been granted bail vide orders mentioned above, the petitioners have remained in jail in connection with the present case for almost one year, investigation against them is complete but the trial is not likely to be taken place in near future, 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, Madhepura in connection with Madhepura (Bharahi) P.S. Case No.

317 of 2020, subject to the conditions as laid down under Section 437(3) Cr.P.C. as under:

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'.