

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.23693 of 2021**

Arising Out of PS. Case No.-338 Year-2020 Thana- MADHEPURA District- Madhepura

1. SABEN SWARNKAR S/o Late Satrudhan Swarnkar R/o village- Bharrahi, P.S.- Madhepura (Bharrahi), District- Madhepura
2. Raben Swarnkar S/o Late Satrudhan Swarnkar R/o village- Bharrahi, P.S.- Madhepura (Bharrahi), District- 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. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 04-09-2021 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. Akhileshwar Dayal, learned A.P.P. for the State.

Petitioners in the present case are seeking regular bail in connection with Session Case No. 30 of 2021 arising out of Madhepura P.S. Case No. 338 of 2020 registered for the offences punishable under Sections 302/34 of the Indian Penal Code. They are in custody since 24.07.2020 and 18.06.2020 respectively. The petitioners have no criminal antecedent.

As per the prosecution story, the wife of Bihari

Swarnkar was throwing dirty water and garbage in front of the shop of the informant. The informant allegedly objected to the same whereupon she started abusing him. On hearing hulla, the family members of the lady came there they were lashed with lathi and danda whereafter the informant fled away. It is alleged that after the informant fled away, the accused persons assaulted the mother of the informant. He named four persons in the F.I.R. including these petitioners.

Learned counsel for the petitioners submits at first instance that it is a case of false implication due to land dispute. The mother of the informant was 70-75 years old lady and she died of her own illness, a natural death.

Learned counsel has drawn the attention of this Court towards the inquest report and the post-mortem report which are on the record. It is pointed out that in the inquest report it is categorically recorded by the police officer that the cause of death is not clear. He did not find any blood stain either on the body or on the earth. The inquest report has been prepared at the house of the deceased.

Learned counsel further points out from the post-mortem report (annexure-2) that the Doctor/Medical Officer who has conducted the autopsy on the dead body has not found

any external injury over the body. On dissection cranial cavity, brain and other parts of the body were found in tact. Regarding the cause of death, the Doctor has opined “opinion reserved till the forensic examination report will come.”

Learned counsel points out that the forensic examination report is also attached with the records and the report RFSL No. 430/2020 dated 13.11.2020 issued by the Office of the Director, Regional Forensic Science Laboratory, Bhagalpur records the result of examination as “no metallic, alkaloidal, glycosidal, pesticidal and volatile poison could be detected in the contents of both plastic jars as described above.”

It is further submitted that in the impugned order of the learned Additional Sessions Judge-VI also nothing has been pointed out from the inquest report, post-mortem report and the F.S.L. report, however, the prayer for bail has been rejected in a routine and a mechanical manner.

Learned A.P.P. for the State is present but is unable to controvert the submissions of learned counsel for the petitioner.

In the circumstances stated hereinabove wherein the informant is not an eye-witness to the alleged occurrence and the materials on the record in form of inquest report, post-mortem report and F.S.L. report are not indicating any injury on

the body of the mother of the informant and the allegations are general and omnibus, this Court directs release of the petitioners 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 Additional Sessions Judge-VI, Madhepura in connection with Session Case No. 30 of 2021 arising out of Madhepura (Bharrahi) P.S. Case No. 338 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.

This application stands disposed of accordingly.

(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'.