

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31144 of 2021

Arising Out of PS. Case No.-412 Year-2020 Thana- BAIRIYA District- West Champaran

1. Baabul Chaudhary Son Of Dhrup Chaudhary R/O Village- Bagahi Ratanpur, P.S.- Bairiya, District- West Champaran.
2. Dhrup Chaudhary Son Of Jita Chaudhary R/O Village- Bagahi Ratanpur, P.S.- Bairiya, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate

For the Opposite Party/s : Mr. Rabindra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 09-12-2021 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners seek regular bail in connection with
Bairiya P.S. Case No. 412 of 2020 instituted for the offences
under Sections 341, 323, 504, 379, 302 and 34 of the Indian
Penal Code.

Learned counsel for the petitioners submits that the
petitioner no. 1 is in custody since 09.10.2020 and petitioner no.
2 is in custody since 04.01.2021, both the petitioner are persons
with clean antecedent and charge-sheet has been submitted in
the case.

Learned counsel for the petitioners submits that the



informant, Pratima Devi in the F.I.R. alleges that on 25.08.2020 at 7.45 pm, informant's co-villager Babulal Chaudhary came at her door in a drunken condition and started abusing her and when the informant forbade him from abusing then the petitioners caught her by neck and pushed her on the road, thereafter it is alleged that the elder brother of the informant Kishun Chaudhary (deceased) came to rescue her on which both the accused persons caught his neck and pushed him on the ground as a result of which he sustained injuries on his head thereafter both assaulted him with fist and leg. Accordingly, he became unconscious and he was taken to hospital from where he was referred to Patna.

Learned counsel for the petitioners submits that from perusal of the allegation as alleged in the F.I.R. it would manifest that on account of scuffle between the petitioners and the deceased it is alleged that the deceased was caught by his neck and pushed on the ground due to which he sustained injury on his head and thereafter the petitioners assaulted him with fist and leg and he was referred to M.J.K. Hospital from where he was referred to Patna. Learned counsel submits that when the occurrence had taken place, the deceased had not died but it was during the course of treatment that the deceased died on



03.09.2020.

Learned counsel for the petitioners submits that from perusal of the postmortem report it would manifest that no external injuries have been found on the body of the deceased as such the allegation that he was caught by neck and pushed on the ground sustaining injury on the head gets falsified. Learned counsel further submits that if the deceased would have died because of the assault then definitely some injuries would have been found on the body. Learned counsel submits that it may be a possibility that the deceased died of brain hemorrhage and since there was a scuffle with the petitioners, they came to be implicated by the informant.

Learned A.P.P. for the State vehemently opposes the prayer for regular bail of the petitioners and submits that there is specific allegation against the petitioners that they had scuffle with the deceased and he was caught by neck and pushed on the ground sustaining head injury but the learned A.P.P. for the State is not able to meet the submission of learned counsel for the petitioners that if the assault was such that it led to death then definitely some external injury would have been found on the body of the deceased.

Considering the fact that the petitioner no. 1 is in



custody since 09.10.2020 and petitioner no. 2 is in custody since 04.01.2021 respectively, charge-sheet has been submitted in the case and the petitioners are persons with clean antecedent, let the petitioners above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) each with two sureties of the like amount each to the satisfaction of learned C.J.M., Bettiah, West Champaran in connection with Bairiya P.S. Case No. 412 of 2020 subject to the condition as laid down under Section 437 (3) Cr.P.C. with a condition that petitioners will have to mark their attendance in the concerned police station in between 20th to 25th of every month commencing from January, 2022 till the charges are not framed and in the event it is reported to the learned court below that the petitioners have not marked their attendance in between the aforesaid dates of any month till framing of charges, the court below shall be at liberty to cancel their bail bonds.

(Satyavrat Verma, J)

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