

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 28040 of 2020**

Arising Out of PS Case No.-128 Year-2020 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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1. Kamdeo Rajak, aged about 35 years, Gender, Male.
 2. Subodh Rajak, aged about 30 years, Gender- Male.
Both Sons of Upendra Rajak, Resident of Ward No.5, Kamarudinpur, Ulao,
P.S.-Muffasil, District-Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. S K Lal, Advocate
For the State	:	Mr. Abhay Kumar Roy, APP
For the Informant	:	Mr. Shashi Dhar Jha, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 22-01-2021

Heard Mr. S K Lal, learned counsel for the petitioners,
Mr. Abhay Kumar Roy, learned Additional Public Prosecutor
(hereinafter referred to as the 'APP') for the State and Mr. Shashi
Dhar Jha, learned counsel for the informant.

2. The petitioners apprehend arrest in connection with
Muffasil (Singhaul OP) PS Case No. 128 of 2020 dated
10.03.2020, instituted under Sections 341, 323, 324, 307, 302/34
of the Indian Penal Code.



3. The allegation against the petitioners and three others is of assault on the father of the informant leading to his death after nine days.

4. Learned counsel for the petitioners submitted that there does not appear to be any reason given in the FIR for the occurrence, however, upon plain reading of the same, it is apparent that other two co-accused are directly named who have given *lathi* blow and by way of addition, the petitioners' name have also been added that everybody had given blow. Learned counsel submitted that it has come that there was quarrel between the children of the two sides which led to this occurrence and at best, it was at the spur of the moment and also with an intention to teach the other side a lesson, as only *lathi* was used and the death was unfortunate as it may have caused some serious injury but death occurring after 9 days is also a pointer that there was neither any intention nor pre-planning nor any serious motive to commit murder. It was submitted that the petitioners do not have any criminal antecedent.

5. Learned APP submitted that the petitioners are also said to have assaulted the deceased by *lathi*.

6. Learned counsel for the informant submitted that the FIR was not lodged for 9 days and only when the deceased passed



away, the villagers forced the police to lodge an FIR. However, he could not controvert the fact that two other named accused have been directly named as the persons who gave the blow and only by way of addition, the name of the petitioners have been included that they also gave blows.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender, before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Begusarai in Muffasil (Singhaul OP) PS Case No. 128 of 2020 subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973. Further, (i) one of the bailors shall be a close relative of the petitioners, (ii) the petitioners and the bailors shall execute bond with regard to good behaviour of the petitioners, and (iii) the petitioners shall also give an undertaking to the Court that they shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of their



bail bonds. The petitioners shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of their bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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