

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31677 of 2020

Arising Out of PS. Case No.-144 Year-2020 Thana- GORAUL District- Vaishali

1. Manish Kumar, male, aged about 22 years old, Son of Late Suresh Rai
2. Ramesh Kumar, male, aged about 22 years old, Son of Anup Lal Rai
3. Santosh Kumar, male, aged about 19 years old, Son of Ravindra Rai
All Resident of Village and P.O.- Piroi, P.S.- Goraul, District - Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ram Shankar Das, Advocate
For the State	:	Ms. Sucheta Yadav, APP
For the Informant	:	Mr. Shakil Ahmad Khan, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 22-02-2021

Heard Mr. Ram Shankar Das, learned counsel for the petitioners; Ms. Sucheta Yadav, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Shakil Ahmad Khan, learned counsel for the informant.

2. The petitioners apprehend arrest in connection with Goraul PS Case No. 144 of 2020 dated 24.04.2020, instituted under Sections 147/148/149/302/323/447/448/342/323/324 of the Indian Penal Code.

3. The allegation against the petitioners and others is that they had assaulted the son of the informant due to some land dispute resulting in his death later on in the Hospital during



the course of treatment.

4. Learned counsel for the petitioners submitted that they have been falsely implicated as the incident is of 19.04.2020, but the FIR has been lodged after delay on 24.04.2020, for which there is no explanation. Learned counsel submitted that on that day, there was fight between the informant side and the petitioners' side and the police had to intervene and three persons were caught, including the deceased, but the police had released all the accused and during the course of treatment the son of the informant died but surprisingly, for such a grave incident, no information was given to the police. It was submitted that from the informant side the local police was informed but they refused to institute FIR and the informant side had also communicated directly to the Superintendent of Police, Vaishali but no action was taken. Learned counsel submitted that though the post-mortem discloses injuries on the body, but in the FIR no specific overt act is alleged against the petitioners or any person and in a huge crowd who had hit where cannot be said with certainty and the petitioners deserve indulgence.

5. Learned APP submitted that from the FIR itself it is clear that the deceased received injuries and the petitioners were



very much part of the mob which had inflicted those injuries. It was further submitted that for the purposes of FIR, the details are not required and further it is only during trial when witnesses will be examined, the role of each person can be ascertained, but for the present, the whole crowd shall be deemed to be responsible for the incident and the death.

6. Learned counsel for the informant submitted that the informant had gone to her parents' place as the informant's parents had only daughters and the accused had wanted the land of the father of the informant to be given to them which she was resisting leading to this incident. It was further submitted that even from the newspaper cutting it is clear that there was fight between two sides which makes it obvious that the injuries received by the deceased was due to such fight in which the accused, that is, the petitioners were the other side. Learned counsel submitted that even with regard to delay, because the police themselves had asked the informant to take her son for better treatment, it was the slackness on the part of the police and further that even with regard to the allegation that the accused side had also complained but no FIR was lodged, they had made a complaint much later than the informant. It was submitted that one of the co-accused Sushil Kumar @ Raja



Prasad has been denied regular bail by this Court on 08.01.2021 in Cr. Misc. No. 30054 of 2020. It was further submitted that the petitioners carry criminal antecedent.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to the petitioners.

8. Accordingly, the application stands dismissed.

9. However, if the petitioners appear before the Court below and pray for bail, within four weeks from today, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J)

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