

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44296 of 2021

Arising Out of PS. Case No.-127 Year-2020 Thana- JAMALPUR District- Munger

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1. Santosh Kumar Yadav @ Lala Yadav Son Of Late Achche Lal Yadav R/O
Naya Tola Phulka, P.S- Jamalpur, Dist- Munger
 2. Nitish Kumar, Son of Santosh Kumar Yadav, Resident of Naya Tola Phulka,
P.S- Jamalpur, Dist- Munger

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prashant Sinha, Advocate

For the Opposite Party/s : Mr. APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 14-12-2021 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners seek regular bail in connection with
Jamalpur P.S. Case No. 127 of 2020 dated 11.11.2020 instituted
for the offences under Sections 302, 120(B) and 34 of the Indian
Penal Code.

Learned counsel for the petitioners submits that the
petitioner no. 1 is in custody since 19.12.2020 and petitioner no.
2 is in custody since 18.12.2020, further petitioner no. 2 is a
person with clean antecedent and as far as petitioner no. 1 is
concerned, he has got one criminal antecedent under Section
498A of the I.P.C. and charge-sheet has been submitted in the
case.



Learned counsel for the petitioners submits that from bare perusal of the allegation as alleged in the F.I.R. it would manifest that the informant alleges that her brother Priyanshu Yadav @ Chhotu Kumar was murdered on 10.11.2020 at about 10.00 p.m. by Santosh Kumar @ Lala Yadav, Nitish Kumar, Mala Devi and Savita Devi. It is further alleged that all the aforesaid four accused persons assaulted her brother with rod and *lathi* leading to his death. It is further alleged that all the four accused used to abuse her brother and even got land registered by her father without giving the entire consideration amount and also threatened to vacate the house and demanded Rs. 5 lakhs when they did not vacate the house.

Learned counsel for the petitioners submits that from perusal of the allegation as alleged in the F.I.R. it would manifest that informant is not an eye-witness to the occurrence. Further, there appears to be a dispute between the petitioner and the father of the informant with respect to the land as it has been alleged in the F.I.R. It is further submitted that the postmortem report does not support the allegation as alleged in the F.I.R. as the doctor had found three incised wounds on the person of the deceased when the allegation is of assault by iron rod and sticks, this further demonstrates that informant is not an eye-witness to the occurrence. Learned counsel further submits that similarly



situated co-accused namely, Mala Devi and Savita Devi have been granted bail by order dated 30.07.2021 in Cr. Misc. No. 27127 of 2021.

At this stage, learned counsel for the petitioners files a supplementary counter affidavit bringing on record the criminal antecedents of petitioner no. 1 along with the order by which the co-accused have been granted bail. Let the same be kept on record.

Learned A.P.P. for the State vehemently opposes the prayer for regular bail of the petitioners.

Considering the fact that the petitioners are in custody since 19.12.2020 and 18.12.2020 respectively, charge-sheet has been submitted in the case and the similarly situated co-accused have been granted bail, let the petitioners above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Munger in connection with Jamalpur P.S. Case No. 127 of 2020 subject to the condition as laid down under Section 437 (3) Cr.P.C.

(Satyavrat Verma, J)

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