

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34442 of 2020

Arising Out of PS. Case No.-78 Year-2020 Thana- BAKHTIYARPUR District- Patna

1. Rana Pratap Paswan @ Pratap @ Ram Pratap Paswan, Son Of Hariwansh Paswan
 2. Samunder Paswan @ Sumundar Paswan, Son Of Varun Paswan
 3. Sanjay Paswan Son Of Varun Paswan
 4. Birmani Paswan Son Of Ram Pravesh Paswan
- All are Resident Of Village - Lakshmanpur, P.S. Bakhtiyarpur, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Kashyap, Advocate
For the Opposite Party/s : Mrs.Sharda Kumari, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 01-03-2021 Heard both sides.

Mr. Manish Kumar Sinha, A.S.P., Barh, Mr. Kamlesh Prasad Sharma, S.H.O., Bakhtiyarpur and Mr. Upendra Ram, Investigating Officer of Bakhtiyarpur P.S. Case No.78 of 2020 are present in Court in pursuance of the order dated 26.02.2021.

During the course of hearing of the bail petition, it transpired that Upendra Ram, the Investigating Officer of the case, very perfunctorily investigated the case and recorded the statement of the witnesses of the case. The Investigating Officer in para 9 of the case diary recorded the statement of Shiv Kumar, aged about 14 years, son of Shrawan Paswan. Basant



Kumar @ Yugal, another son of Shrawan Paswan was killed but the Investigating Officer disclosed in para 9 of the case diary that Shiv Kumar stated before him that his father Shrawan was assaulted and blood was oozing from his head. This fact itself shows that Investigating Officer of the case is bent upon to destroy the evidence in the case of murder. It further appears that he annexed the post-mortem report of Dharmveer Singh whereas the deceased of Bakhtiyarpur P.S. Case No.78 of 2020 is Basant Kumar @ Yugal, son of Shrawan Paswan. The S.H.O. of Bakhtiyarpur P.S. disclosed that due to inadvertence and negligence, the Investigating Officer annexed the post-mortem report of the deceased of another case in Bakhtiyarpur P.S. Case No.78 of 2020. Even the A.S.P. supervised the case but he did not detect such gross negligence committed on the part of the Investigating Officer. This fact shows that the Investigating Officer does not know the preliminary and basic requirement of investigation but the reasons best known to the S.H.O. and other superior police officer, he was entrusted with the work of investigation of the case.

Having considered the facts, I find that there is very sorry state of affairs in the State of Bihar with regard to the investigation of criminal cases.



Let this order be placed before the D.G.P. and the Principal Secretary (Home), Bihar for information and needful so that work of investigation may be entrusted to efficient and competent police officer and no such negligence be committed in future.

The personal appearance of the police officers is exempted.

The petitioners seek bail in Sessions Trial No.264 of 2020 arising out of Bakhtiyarpur P.S. Case No.78 of 2020 registered under Sections 302 and 34 of the Indian Penal Code.

The informant, father of the deceased, disclosed that while he was worshipping and singing Bhajan, he heard that there was quarreling. He came to his house and saw his son, Basant Kumar @ Yugal had injury on his head. Blood was oozing. He was brought to P.H.C. for treatment. The informant further disclosed that Rana Pratap Paswan @ Pratap, Samunder Paswan, Sanjay Paswan and Birmani Paswan assaulted his son.

The learned counsel for the petitioners submits that informant is not an eye witness of the occurrence. The police did not collect any tangible evidence to show that any witness of the occurrence saw the occurrence. During the course of investigation, the police recorded the statement of hearsay



witnesses. In paragraph 8, 9, 10 and 11 of the case diary, the police only recorded the statements of father, brother and two other witnesses but they are not the eye witnesses of the occurrence and the accusation of the petitioners are only on the basis of suspicion. The deceased got one lacerated wound over right temporal region with fracture of temporal bone. One bruise over mid back was also found on the right side of head and on account of both injuries, the deceased died but there is no material to show that who assaulted the deceased with what weapon.

Taking into consideration the facts aforesaid, let the petitioners, above named, be enlarged on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge III, Barh, Patna in connection with Sessions Trial No.264 of 2020 arising out of Bakhtiyarpur P.S. Case No.78 of 2020.

(Prabhat Kumar Jha, J)

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