

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.299 of 2021**

Arising Out of PS. Case No.-181 Year-2020 Thana- KATEYA District- Gopalganj

1. SRI PRAKASH OJHA @ CHHURI OJHA Son of Late Ram Vishwash Ojha Resident of Village- Amahi Banke, P.S.- Kateya, Distt- Gopalganj.
2. RAMAYAN OJHA Son of Late Dev Narayan Ojha Resident of Village- Amahi Banke, P.S.- Kateya, Distt- Gopalganj.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Bakshi S.R.P. Sinha,Sr.Advocate Mr.Lokesh Kumar Singh,Advocate
For the State	:	Mr.Akhileshwar Dayal,APP
For the Informant	:	Mr.Sanjay Kumar Pandey No. 5,Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

8 24-07-2021 Learned Senior Counsel for the petitioners undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned Senior Counsel for the petitioners, Mr. Sanjay Kumar Pandey No. 5, learned counsel for the informant and Mr. Akhileshwar Dayal, learned APP for the State.

The petitioners in the present case are seeking regular bail in connection with Kateya P.S. Case No. 181 of 2020 registered for the offences punishable under Section 147, 148, 149, 341, 323, 324, 307, 302 of the Indian Penal Code.

Learned Senior Counsel for the petitioners submits that as per the prosecution story the informant is an eye witness, he has also suffered injury in the alleged occurrence and according to him co-



accused Manjesh Ojha has assaulted him firstly by lathi and thereafter by a knife on his lips. The informant has further alleged that when his sister's son came to save him the co-accused Deepak Ojha pierced a knife on his chest thereafter his sister's son fell down. He has given further eye witness account to the alleged occurrence saying that co-accused Amod Ojha assaulted Mustafa Ansari who is son of the informant by lathi and co-accused Pramod and Amresh assaulted the younger son of the informant by lathi.

Learned Senior Counsel therefore submits that so far as these two petitioners are concerned, they are not named in the First Information Report. This becomes important because the FIR has been lodged on the next day of the alleged occurrence i.e. on 13th June, 2020. In his further statement the informant has improved upon his earlier version and said that these two petitioners were also involved in the alleged occurrence, however, no specific overt act has been alleged against these two petitioners.

Learned Senior Counsel further points out that the FIR was belatedly lodged and this fact is evident from on the face of the endorsement made by learned CJM according to which he had seen the FIR on 17.6.2020.

By filing a supplementary affidavit, the petitioners have brought on record the criminal antecedents. The petitioner No. 1 has got five criminal antecedents, however, it is the contention of learned Senior Counsel that most of them are of petty nature and the last case



was lodged in the year 2010. Petitioner No. 2 has got criminal antecedent of petty nature and he is on bail in those cases.

Learned counsel for the informant as well as learned APP for the State have opposed the prayer for bail of the petitioners. Learned counsel for the informant submits that in the mobile camera the alleged occurrence was videographed and in the said video these two petitioners were also seen participating in the occurrence.

Considering the facts and circumstances of the case, the nature of dispute being a land dispute, the delay in sending of the FIR and the fact that these two petitioners are not named in the FIR and specific overt act have been alleged against the co-accused by the informant, the petitioners are in custody in connection with this case since 17.6.2020, investigation against them is complete but the trial is not likely to take place in near future, this Court directs release of the petitioners above named on bail on furnishing of bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gopalganj in connection with Kateya P.S. Case No. 181 of 2020, subject to the conditions as laid down under Section 437(3) Cr.P.C. as under:

(a) That such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) That such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the



commission of which is suspected, and

(c) that such persons shall not directly or indirectly make and inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

