

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2670 of 2021

Arising Out of PS. Case No.-347 Year-2020 Thana- BRAHMPUR District- Buxar

1. ASHA DEVI W/O Brindra Kumar Resident Of village - Rathuan, P. S. - Brahmpur, District - Buxar.
2. Birendra Kumar S/O Late Shivshankar Kamkar Resident Of village - Rathuan, P. S. - Brahmpur, District - Buxar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar
For the Opposite Party/s	:	Ms. Renu Kumari
For the informant	:	Mr. Surendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

7 08-12-2021 Heard learned Counsel for the petitioners, learned Counsel for the informant and learned Additional Public Prosecutor for the State.

The petitioners seek regular bail in connection with Brahampur Police Station Case No. 347 of 2020, registered for the offence punishable under Section 302/34 of the Indian Penal Code.

The prosecution case, in brief, is that the petitioners, along with other family members, assaulted the father of the informant by means of lathi and iron-rod and in course of treatment, the father of the informant died.

Learned Counsel for the petitioners submits that the petitioners have falsely been implicated in this case along with other family members due to land dispute between the parties



and on the date of occurrence, during construction of boundary wall, a free fight had taken place between the parties and there was stone pelting from both the sides. He further submits that the deceased died due to the injuries received during the fight between the parties and there is case and counter case inasmuch as Brahampur Police Station Case No. 346 of 2020 has been filed by the petitioner no. 2, for an incident which has taken place on the same date and time. He further submits that from perusal of post mortem examination report, it would be evident that no external injury was found over the body of the deceased. He further submits that the allegation against the petitioners is general and omnibus in nature and no specific overt act has been alleged against them in the First Information Report. He further submits that charge sheet has been filed under Section 304/34 of the Indian Penal Code and the petitioners are in custody since 03.07.2020. There is no chance that the petitioners will abscond or tamper with the evidence.

On the other hand, learned Counsel for the informant submits that the trial has already commenced and out of nine witnesses, four have been examined and the trial is likely to be concluded in near future.

Regards being had to the submissions advanced on



behalf of the parties and taking into consideration the materials available on record, and the fact that there was land dispute between the parties, there is case and counter case, informant has already been examined in the trial, the petitioners are in custody since 03.07.2020 and there is no likelihood that the petitioners will abscond or tamper with the evidence, I am inclined to grant regular bail to the petitioners.

This application is, accordingly, allowed.

Accordingly, let the petitioners, above named, be released on bail, upon furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned 9th Additional Sessions Judge, Buxar, in connection with Brahampur Police Station Case No. 347 of 2020.

This is subject to the condition that the petitioners shall present themselves before the Court, as and when required and in the event of failure on their part to appear before the Court on two consecutive occasions, their bail bond shall be liable to be cancelled.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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