

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.339 of 2021

Arising Out of PS. Case No.-43 Year-2020 Thana- WAJIRGANJ District- Gaya

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1. Arun Kumar @ Gopal Jee, Son of Sri Shivdani Prasad Singh, Resident of Village - Wazirganj, P.S. - Wazirganj, Distt. - Gaya.
 2. Asim Kumar Pawan, Son of Sri Rambriksh Maharaj, Resident of Village - Poora, P.S. - Wazirganj, Distt. - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Thakur, Adv.
For the Informant	:	Mr. Prakash Chandra Jha, Adv.
For the State	:	Mr. Jagdhar Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 13-07-2021

Heard Mr. Ajay Thakur, the learned

Advocate for the petitioners and Mr. Prakash Chandra Jha, the learned counsel for the informant. The State is represented by Mr. Jagdhar Prasad, the learned Addl. Public Prosecutor.

The petitioners seek bail in anticipation of



their arrest in connection with Wazirganj P.S. Case No. 43 of 2020, dated 31.01.2020, instituted for the offences under Sections 302, 120 and 34 of the Indian Penal Code.

The informant is the uncle of one of the deceased boys, namely, Prashant Raj.

Two students of Gyan Ganga Residential Public School died because of drowning. They had gone to a local pond for immersion of the statue of Goddess *Saraswati*. According to the F.I.R., the informant received an information that two boys including his nephew have died because of drowning. The informant immediately rushed to the school but was given no information regarding such mishap. Later, it transpired that the nephew of the informant and one Naitik Kumar Singh died because of drowning.

Hence, the F.I.R. was registered against the petitioners, who are the Director and the Principal of the school in question.



It has been submitted on behalf of the petitioners that from the investigation papers, it can safely be inferred that there was no intention on their part to have caused death of the deceased. They may have been negligent but prosecuting them for murder of these two students would be absolutely unwarranted and not based on records.

Mr. Thakur, the learned Advocate for the petitioners has drawn the attention of this Court to various paragraphs of the case diary, wherein the statement of the students of the said school have been recorded. Most of those students have stated that they had carried the statue of Goddess *Saraswati* for immersion in a local pond and they were accompanied by petitioner No. 1. Unfortunately, two of the deceased boys slipped and got drowned. The petitioner No. 1 is stated to have entered the water body to rescue the drowning children. The boys were taken out from the pond and were immediately taken to Primary Health Centre but as ill luck would have it,



they were declared dead by the local Doctor.

Opposing the prayer for grant of anticipatory bail, Mr. Prakash Chandra Jha, the learned Advocate for the informant has submitted that in the first instance, the petitioner No. 1 ought not to have accompanied the students in such a misadventure. The management of the school including the petitioners ought to have been more careful while dealing with children who were going to a water body for the purposes of immersion of the statue. Apart from this, it has also been submitted that after the mishap had taken place, it was expected of the petitioners to have immediately informed the parents of the deceased boys. Not having done so and remaining secretive about the entire episode does cast an accusing finger towards the petitioners. They may not be guilty of murder of the deceased but have definitely been negligent enough as part of the management of the school where children of young age study.



In any view of the matter, after having gone through the records of this case and hearing the counsel for the parties, this Court is of the view that the petitioners cannot directly be faulted for the death of the deceased boys. However, they cannot be absolved of their responsibility as part of the management of the school in not being diligent; rather negligent in their approach. However, for that, the petitioners ought not to be sent to jail even by taking the accusation under Section 304 of the I.P.C. on its face value.

Regard being had to the facts afore-stated, the provisional bail granted to the petitioners *vide* order dated 24.06.2021 is, hereby, confirmed. They shall remain on the same bail-bonds.

However, the petitioners are directed to participate in the investigation and if the case goes to trial, they would be under an obligation to participate in the trial. Any attempt on the part of the petitioners to tamper with the evidence or impede the process of



investigation or trial as the case may be would render
the anticipatory bail granted to them liable to be
cancelled.

The application stands disposed off
accordingly.

(Ashutosh Kumar, J)

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