

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.2149 of 2021**

Arising Out of PS. Case No.-395 Year-2020 Thana- HAJIPUR SADAR District- Vaishali

SHILA DEVI Wife of Vinod Rai R/O - Village - Samachak @ Shamachak,
P.S.- Hajipur Sadar, District- Vaishali.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

with

CRIMINAL MISCELLANEOUS No. 4102 of 2021

Arising Out of PS. Case No.-395 Year-2020 Thana- HAJIPUR SADAR District- Vaishali

1. SUBODH RAI S/O JAI KISHUN RAI R/O VILLAGE - SAMACHAK@
SHAMACHAK, P.S. - HAJIPUR SADAR, DISTRICT - VAISHALI
2. MAHESH RAI S/O JAI KISHUN RAI R/O VILLAGE - SAMACHAK@
SHAMACHAK, P.S. - HAJIPUR SADAR, DISTRICT - VAISHALI

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 2149 of 2021)

For the Petitioner/s : Mr. Manish Chandra Gandhi, Advocate

For the Informant : Mr. Sunil Kumar Singh, Advocate

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

(In CRIMINAL MISCELLANEOUS No. 4102 of 2021)

For the Petitioner/s : Mr. Manish Chandra Gandhi

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

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

3 07-04-2021 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

Petitioners in the present case are seeking regular bail
in connection with Hajipur Sadar P.S. Case No. 395 of 2020



registered for the offences punishable under Section 302/34 of the Indian Penal Code.

Learned counsel for the petitioners submits that as per the prosecution story, the informant who happens to be the brother of the deceased, heard the shouts of the deceased on 09.07.2020 at 11:30 P.M. On hearing, the informant went to the place of occurrence where his brother was sleeping and found that his brother was sleeping outside on a cot was lying in pool of blood, his neck was slited and blood was oozing out. Thereafter, the informant says that at the door he saw the co-accused Binod Rai, Rajesh Rai, Rakesh Rai and petitioner Shila Devi having daab in their hand. Co-accused Mahesh Rai and Subodh Rai (petitioners) were having lathi-danda in their hand. Thereafter, the informant does not say anything about these accused and he alleges that in the injured condition his brother was restless and soon after that he died at the place of occurrence.

The information in this regard was sent to the police station. The informant has explained further that his brother has been murdered because he had been in love affair with the daughter of the co-accused Binod Rai and for that reason he had been threatened earlier by said co-accused.



Learned counsel submits that it is a case of false implication of the entire family of the petitioners. This petitioner in Cr. Misc. No. 2149 of 2021 is a female member of the family and happens to be the wife of co-accused Binod Rai.

It is further submitted that from the case diary which is available on the record, it would appear that the I.O. has described the place of occurrence which is said to be a place outside the house of the informant, the boundary of the said place would show that there are open fields with paddy crops and bananas trees. The I.O. has not found any blood mark at the alleged place of occurrence and no blood stain on earth/soil has been found there which would prima-facie show that the place of occurrence has not been correctly stated by the informant.

Learned counsel further submits that the cause of death of the brother of the informant is an injury said to have been caused by a sharp cutting weapon. In the F.I.R., altogether four accused persons have been attributed with the daab, police had not recovered any such weapon from the house of the petitioners.

It is further submitted that so far as the petitioners Subodh Rai and Mahesh Rai in Cr. Misc. No. 4102 of 2021 are concerned, they were allegedly having a lathi-danda in their



hand but no injury by hard and blunt substance have been found on the dead body of the deceased.

Learned counsel further submits that apparently the informant has not seen the alleged occurrence and it is only in order to falsely implicate the entire family, all the members of the family have been made accused. It is, thus according to him, a case of over implication of accused with the help of Section 34 of the I.P.C.

Learned counsel for the informant as well as learned A.P.P. for the State have opposed the prayer for bail of the petitioners. However, in course of hearing, no material has been pointed out to this Court to show that in course of investigation police has collected any material in form of statement of any eye-witness or recovery of any weapon from the house of these petitioners.

Considering the aforesaid facts and circumstances of the case, kind of materials which have been placed before this Court and that apparently the informant is not an eye-witness to the alleged occurrence, the petitioners have remained in jail for nine months approximately, investigation against them is complete and at this stage there is no submission on behalf of the State that their release is likely to result in tampering with



the evidence or interfering with the course of trial, let the petitioners above named be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned C.J.M., Vaishali at Hajipur in connection with Hajipur Sadar P.S. Case No. 395 of 2020 subject to the condition 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 he is suspected, and

(c) that such person shall not directly or indirectly make any 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.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rishi/-

U		T	
---	--	---	--

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'.

