

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9515 of 2021

Arising Out of PS. Case No.-453 Year-2019 Thana- MAKHDUMPUR District- Jehanabad

1. SHASHI KUMAR Son of Naresh Yadav Resident of Village- Serthua, P.S.- Makhdumpur, District- Jehanabad.
2. Kundan Kumar Son of Naresh Yadav Resident of Village- Serthua, P.S.- Makhdumpur, District- Jehanabad.
3. Kaushal Yadav @ Kaushal Kumar Son of Shivratan Yadav Resident of Village- Serthua, P.S.- Makhdumpur, District- Jehanabad.
4. Dipak Yadav @ Dipak Kumar @ Manish Yadav Son of Vinod Yadav Resident of Village- Serthua, P.S.- Makhdumpur, District- Jehanabad.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Surendra Kumar Mishra, Advocate
For the Opposite Party/s : Mr. Binod Kumar, No.-III, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 18-03-2021 Learned counsel for the petitioners undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

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 Makhdumpur P.S. Case No. 453 of 2019 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 307, 302, 427, 379 and 504 of the Indian Penal Code.



As per the prosecution story, on 09.10.2019 the accused petitioners along with 10-15 other co-accused, armed with ladi, danda, came to his shop and assaulted his brother. They also took away Rs. 30-35,000/- (approx) and scattered the entire goods of the shop. His brother received injury on head and he became unconscious. He was taken to the hospital where he was declared dead.

Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. It is submitted that there is no specific allegation of causing assault against these petitioners. Learned counsel submits that the similarly situated co-accused has been granted bail by a learned coordinate Bench of this Court in Cr. Misc. No. 83662 of 2019. The petitioners are in custody since 27.11.2020.

Learned A.P.P. for the State is present and has opposed the prayer for regular bail of the petitioners.

Having regard to the facts and circumstances of the case, the submission of learned counsel for the petitioners that in the First Information Report altogether 18 persons have been named and allegations have also been made against 10-15 unknown persons but the allegations are general and omnibus,



the informant has not seen as to who had assaulted his brother and further considering the materials on the record the learned coordinate Bench of this Court has granted bail to co-accused Umesh Prasad @ Umesh Yadav @ United in Cr. Misc. No. 83662 of 2019, one of the co-accused has already been granted bail by the learned court below, so far as petitioners nos. 1 and 4 are concerned, they have got one case on their head in which matter has been compromised and they are on bail, learned A.P.P. for the State is unable to demonstrate that the case of the petitioners stand on a different footing from that of the co-accused who has been granted privilege of regular bail, this Court directs that the petitioners above named be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Jehanabad in connection with Makhdumpur P.S. Case No. 453 of 2019 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.

The application is disposed of accordingly.

(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'.

