

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 61680 of 2021

Arising Out of PS. Case No.-162 Year-2021 Thana- BAKHTIARPUR District- Saharsa

1. MAHESHWAR SAH SON OF LATE SAHADEV SAH R/O VILLAGE-
TARIYAMA, P.S.- BAKHTIYARPUR, DISTRICT- SAHARSA
2. SARITA DEVI WIFE OF BHAWESH SAH R/O VILLAGE- TARIYAMA,
P.S.- BAKHTIYARPUR, DISTRICT- SAHARSA

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 5850 of 2022

Arising Out of PS. Case No.-162 Year-2021 Thana- BAKHTIARPUR District- Saharsa

DAYMALA DEVI W/o Maheshwar Sah Resident of Village - Tariyama, P.S.-
Bakhtiyarpur, Distt.- Saharsa.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 61680 of 2021)

For the Petitioner/s : Mr. Satish Kumar Singh, Adv.

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

(In CRIMINAL MISCELLANEOUS No. 5850 of 2022)

For the Petitioner/s : Mr. Satish Kumar Singh, Adv.

For the Opposite Party/s : Mr. Rajendra Nath Jha, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

3 12-04-2022 Heard learned counsel for the parties.

The petitioners have preferred this application for grant of regular bail in a case registered under sections 302, 307 and other sections of the Indian Penal Code.

As per the prosecution case, it is stated that over a dispute relating to teasing of the nephew of the informant by Ankit Kumar and Pravesh Kumar it is stated that on the brother



of the informant Arbind Kumar Sah going to the family members of the two accused to protest about the occurrence, the twelve named accused persons including the three petitioners herein are said to have come variously armed with the *lathi*, iron rod, etc. and of having assaulted the brother of the informant. He was seriously injured and was taken to the hospital where he died in course of treatment.

It is submitted by learned counsel for the petitioners that the petitioners have been falsely implicated in the case. The manner of occurrence is other than what has been narrated in the FIR. The falsity of the allegations would be evident from the contents of the postmortem report which has been brought on record as Annexure-3 to the petition. Referring to the same it is submitted that against the allegation in the FIR of twelve persons having assaulted the brother of the informant with iron rod, *lathi* etc, the injury which has been found in the postmortem report is a swelling on left side of the parietal region and the cause of death in the opinion of the doctor is cardio pulmonary arrest as a result of the said injury. It is further submitted that of the three petitioners herein two are females. The petitioners are in custody since 2.7.2021, 9.6.2021 and 1.10.2021 respectively and have no criminal antecedent.



Chargesheet has been submitted in the case.

The application for bail is opposed by learned A.P.P. for the State and learned counsel for the informant. It is submitted by learned counsel for the informant that not only the petitioners are named in the FIR but there is specific allegation against them. There is specific allegation against the petitioner Maheshwar Sah who is said to be one of the assailant. It is further submitted that it has come in course of investigation that petitioner Maheshwar Sah and Ankit Kumar assaulted the deceased.

Having heard learned counsel for the parties and taking into consideration the facts of the case, the allegations in the FIR being general and omnibus in nature, the same not having been supported from the contents of the postmortem report (Annexure-3) together with chargesheet having been submitted in the case, the Court directs all the three petitioners to be enlarged on bail in connection with Bakhtiyarpur P.S. Case no. 162 of 2021 on each of them furnishing bail bond of Rs.10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Saharsa.

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(Partha Sarthy, J)

