

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12021 of 2021

Arising Out of PS. Case No.-208 Year-2020 Thana- KOTWALI District- Munger

1. Jassi Paswan, S/O Late Deoki Paswan, R/O Village- Katghar, P.S-Kotwali, District-Munger.
2. Bablu Paswan S/O Late Deoki Paswan R/O Village-Katghar, P.S-Kotwali, District-Munger.
3. Vishal Kumar @ Vishal S/O Jassi Paswan R/O Village-Katghar, P.S-Kotwali, District-Munger.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ansul, Advocate
		Mr. Ram Sevak Choudhary, Advocate
For the Opposite Party/s	:	Mr. Jagdhar Prasad, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

6 26-07-2022 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Ansul, learned counsel for the petitioners and learned APP for the State.

The petitioners seek regular bail, who are in custody in connection with Kotwali P.S. Case No. 208 of 2020 registered for the offences punishable under Sections 341, 323, 325, 308, 504 and 506/34 of the Indian Penal Code and later on Section 302 of the Indian Penal Code was added.

As per prosecution case, it is alleged that on 18.07.2020 at about 7.00 AM while the informant was going to



market, in the meantime, all the three petitioners and co-accused Akash Paswan variously armed with Lathi and Danda surrounded him and started abusing. On protest being made, it is alleged that petitioner no.1 assaulted the informant by means of lathi over his head. On halla raised by the informant, his brother and father came and tried to rescue, thereupon all the accused persons assaulted them.

Learned counsel appearing on behalf of the petitioners submits that with regard to an occurrence, which took place on 18.07.2020, the present F.I.R. has been instituted on 23.07.2020, after a delay of five days, though no explanation of such delay has been assigned. It is next submitted that the present case is nothing but a counter blast of Munger Kotwali P.S. Case No. 201 of 2020 instituted by petitioner no.1. It is next submitted that in fact on account of a trifling matter, a free fight was taken place, wherein the persons of both the sides received injuries, however, the prosecution has failed to explain the injuries sustained over the person of the petitioners. It is next submitted that from the tenor of the F.I.R., it is evident that no specific allegation of any overt act has been levelled against any of the petitioners and so far as the petitioner no.1 is concerned, against whom it is alleged that he assaulted the informant over his head,



but no injury has been found, even during the course of investigation. It is further submitted that the father of the informant died after 12 days of the occurrence and thereafter Section 302 of the Indian Penal Code has been added, though during the course of post-mortem, no ante-mortem injury has been found over the body of the deceased and only a single injury over his head has been found, which does not corroborate the prosecution case. The petitioners are in custody since 15.09.2020 having men of fair antecedent.

On the other hand, learned counsel for the informant opposes the bail application and submits that all the petitioners and co-accused person in furtherance of common intention assaulted the father of the informant, which resulted into his death. It is also submitted that the post-mortem report corroborate the prosecution case, as the death of the father of the informant occurred on account of head injury, caused by hard and blunt substance.

Learned APP for the State also opposes the bail application.

Having regard to the submissions made on behalf of the parties and considering the fact of delay in lodging the F.I.R. and the nature of injuries sustained to the deceased as well as



informant, apart from the fact that the petitioners are in custody since 15.09.2020 having men of fair antecedent, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Munger in connection with Kotwali P.S. Case No. 208 of 2020, subject to the condition that one of the bailors will be the close relatives of the petitioners with further conditions which are as follows:-

(i) The petitioners will cooperate in conclusion of the trial.

(ii) They will remain present on each and every date of trial till disposal of the case.

(iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(Harish Kumar, J)

uday/-

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

