

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21043 of 2021

Arising Out of PS. Case No.-186 Year-2020 Thana- MOKAMAH District- Patna

1. SHYAM YADAV SON OF LATE SINGESHWAR YADAV RESIDENT OF VILLAGE- KANHAIPUR, P.S.- MOKAMA, DISTRICT- PATNA
2. SHANKAR YADAV SON OF MADAN YADAV RESIDENT OF VILLAGE- TARTAR, P.S.- GHOSHWARI, DISTRICT- PATNA

... .. Petitioners

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Arun Kumar Arun, Advocate
For the State	:	Mr.Anuj Kumar Shrivastava, APP
For the Informant	:	Mr. Prem Chandra Yadav, Advocate

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

5 21-04-2022 The applicants/ accused in Crime No. 186 of 2020 registered with Mokama police station for the offences punishable under Sections 147, 148, 149, 323, 324, 325, 302, 34 of the Indian Penal Code and Section 27 of the Arms Act by this application are seeking their release on bail during pendency of the trial.

Heard all parties.

The learned counsel for the applicants drew my attention to the report of postmortem examination so also to the communication by the police inspector addressed to the Senior Superintendent of Police and averment in the case diary to the effect that injured Rajan is not disclosing where he had taken treatment and regarding non-furnishing the papers of medical treatment by the injured. It is further argued that two hours prior



to the incident in question, there was incident of murder of Guddu Kumar who happens to be son of co-accused Mahesh Yadav and deceased Sagar Yadav as well as his son were named as accused in the FIR relating to murder of Guddu Kumar lodged by Madhu Devi. With this it is argued that no specific role in the crime in question is attributed to the present applicants and the main assailant is stated to be one Rajiv Yadav. Therefore according to the learned counsel for the applicants, they are entitled to bail after filing of the charge sheet.

The learned APP as well as the learned counsel appearing for the first informant opposed the application and contended that specific role is attributed to the applicants in the subject crime and, therefore, they are not entitled to bail.

I have considered the submissions so advanced and also perused the materials placed on record including the counter affidavit filed by the respondent.

FIR of the subject crime is lodged by the first informant Kunti Devi. She alleged that at about 6:00 PM of 13.09.2020, both applicants along with co-accused including Rajiv Yadav, Mahesh Yadav etc. raided her house armed with lethal weapons. Her relative Sagar Yadav (since deceased) was



dragged outside the house and co-accused Rajiv Yadav assaulted him by means of spear. Thereafter all other accused persons assaulted him by means of sticks and iron rods. When her brother-in-law Rajan Yadav tried to intervene he was also assaulted by the accused persons.

Report of postmortem examination of Sagar Yadav shows that he died due to haemorrhage caused by multiple injuries. The autopsy surgeon noted that dead body of Sagar Yadav was having lacerated wound to the left leg. Left face of the dead body was having swelling and there was bleeding from the left ear. Left Mandible of the dead body was fractured. Similarly, left wrist of the dead body was having fracture injury. Upon internal examination, intracranial haemorrhage was found in the head. Prima facie it is seen that lacerated wound to the left leg was a result of blow by spear but fatal injuries were found on the head of the deceased. Those injuries are attributable to the blows by sticks and rods.

The first informant is an eye witness to the subject crime as the incident took place at and in front of her house. She has ascribed role to the applicants in the subject crime of assault on the deceased by means of rod and sticks.

Injured Rajan Yadav seems to have not co-operated



the police by disclosing the place where he had taken medical treatment and this fact is reflected from the letter of the investigating officer so also the averment in the case diary. However, his statement was recorded by the police wherein he has reiterated the averments found in the FIR. There are reportedly six eye witnesses to the subject crime.

Perusal of the report lodged by Madhu Devi who happens to be wife of co-accused Mahesh Yadav shows that her son Guddu Kumar was done to death by about 16 accused persons on 13.09.2020 at about 4:00 PM i.e. two hours prior to the subject incident. Deceased Sagar Yadav and his son Laxman were named as assailant in that FIR. However, the FIR lodged by Madhu Devi cannot inure to the benefit of the applicants at least at this stage because it constitutes a motive for eliminating deceased Sagar Yadav.

Perusal of the postmortem report prima facie shows that fatal wounds are ascribed to the act of the present applicants as well as the co-accused and therefore, no case for grant of bail is made out. The application is accordingly rejected.

(A. M. Badar, J)

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