

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22791 of 2022

Arising Out of PS. Case No.-601 Year-2021 Thana- DHAKA District- East Champaran

1. Radheyshyam Prasad @ Radheshyam Kumar S/o Jailal Prasad R/o village- Kushwanshi Nagar, P.S.- Dhaka, District- East Champaran
2. Harishchandra Prasad S/o Late Jagan Prasad R/o village- Kushwanshi Nagar, P.S.- Dhaka, District- East Champaran
3. Prem Prasad S/o Late Jagan Prasad R/o village- Kushwanshi Nagar, P.S.- Dhaka, District- East Champaran
4. Rambishwas Prasad S/o Late Jawahar Prasad R/o village- Kushwanshi Nagar, P.S.- Dhaka, District- East Champaran
5. Shesh Kumar @ Shesh Prasad S/o Ram Lachchan Prasad R/o village- Kushwanshi Nagar, P.S.- Dhaka, District- East Champaran
6. Harikishore Prasad S/o Lalan Prasad R/o village- Kushwanshi Nagar, P.S.- Dhaka, District- East Champaran
7. Brij Kishore Prasad S/o Lalan Prasad R/o village- Kushwanshi Nagar, P.S.- Dhaka, District- East Champaran
8. Jawahar Prasad S/o Late Ram Lachchan Prasad R/o village- Kushwanshi Nagar, P.S.- Dhaka, District- East Champaran

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Vishwajeet Kumar Mishra, Advocate.

For the Opposite Party/s : Mr. Umesh Lal Verma, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

2 27-07-2022 Heard learned counsel for the petitioner, learned
A.P.P. for the State and learned counsel for the informant.

The petitioners seek regular bail in connection with
Dhaka P.S. Case No. 601 of 2021 lodged under Sections 347,
148, 149, 323, 307, 302, 380, 427, 435, 504, 354B of the Indian
Penal Code.

As per the prosecution story in which informant has
narrated before the Camp In-charge Sadar Hospital Motihari
East Champaran that on 10.12.2021 at about 05 p.m. 12 named

accused persons including the petitioners visited at the door of the informant armed with Lathi Danda and started abusing. Upon protest by the father of the informant, Lalan Prasad assaulted his father on his head with intention to kill. When father of the informant entered in the house, they all chased and again attacked. Allegation was also made on Hariom and Brij Kishore Prasad to assault by lathi on the back of the father of the informant. Whereas, the allegation about repetition of attack, were upon Lalan Prasad who assaulted to the informant's father again by lathi, which resulted into head injuries. A general and omnibus allegation was made against all the accused persons to assault him. It was informed that he was admitted to hospital and during treatment he died.

Learned counsel for the petitioners submits that for the occurrence of 10.12.2021 at 05 p.m. a criminal case before the same P.S. on 11.12.2021 itself bearing Dhaka P.S. Case No.598 of 2021 under Sections 447, 341, 325, 354B, 307, 380, 504/34 of the Indian Penal Code (Annexure No.2) by opponents. Learned counsel for the petitioners submits that vide Annexure No.3, i.e. postmortem report, the cause of death was due to head injury by hard and blunt substances. Learned counsel for the petitioners submits that there is a case and

counter case for the same date and place of occurrence. He further submits that petitioner nos.1 to 4 have surrendered before the police and are in custody since 21.12.2021 and petitioner nos.5 to 8 have surrendered and are in custody since 15.01.2022, charge sheet has already been filed. He further submits that criminal antecedent of all the petitioners are clean.

Learned Additional Public Prosecutor for the State opposes the prayer for bail and requested to call for case diary.

Informant also appeared in this case through his counsel and vehemently opposes the prayer for bail and submits that there is allegation upon all the accused persons to assault the deceased and, therefore, bail of all the petitioners should be rejected.

In the present facts and circumstances of this case and the submissions made above, it transpires to me that there is a case and counter case for the same date, time and place of occurrence from both the sides as Annexure No.1 and Annexure No.2. In the F.I.R., there is specific allegation against the Lalan Prasad to act and overt act upon the deceased by lathi with a view to kill him on his head. Postmortem report supports the allegation made in the F.I.R. that, cause of death is due to hard and blunt substances due to the head injury.

Considering the facts and circumstances of this case and the submissions made above, let the petitioner above named, be granted 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, Motihari, East Champaran in connection with Dhaka P.S. Case No. 601 of 2021, subject to the conditions as laid down under Section 437(3) of Cr.P.C.

All the petitioners are directed to support in trial and shall appear on each and every date fixed by the court below, in case of non-appearance for two consecutive dates without reasonable cause, shall resulted into cancellation of their bail bonds. If they shall involve in such type of activities again, the prosecution shall be at liberty to move for cancellation of their bail bonds.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

ritik/-

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