

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26526 of 2022

Arising Out of PS. Case No.-180 Year-2021 Thana- PALANWA District- East Champaran

1. Amirul Hasan, S/o Late Sheikh Md. Hasan, R/o village- Gad Bahuwari, P.S.- Palanwa, District- East Champaran
2. Wasimul Hasan, S/o Late Sheikh Md. Hasan, R/o village- Gad Bahuwari, P.S.- Palanwa, District- East Champaran
3. Ruksana Khatoon, W/o Imamul Hasan, R/o village- Gad Bahuwari, P.S.- Palanwa, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ram Adya Singh, Advocate
For the Opposite Party/s	:	Mrs. Meena Singh, APP
For the Informant	:	Ms. Ranjana Srivastava, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 23-08-2022 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. Ram Adya Singh, learned counsel for the petitioners, Ms. Ranjana Srivastava, learned counsel for the informant and learned APP for the State.

The petitioners seek regular bail, who are in custody in connection with Palanwa P.S. Case No. 180 of 2021 registered for the offences punishable under Sections 302/149 and other allied sections of the Indian Penal Code.

As per prosecution case, it is alleged that on



15.12.2021, at about 7.30 AM while the brother of the informant was sitting at his door, in the meantime, all the F.I.R. named accused persons including the petitioners variously armed surrounded them. It is further alleged that co-accused Aimul Hasan ordered to kill the brother of the informant, whereupon S.K. Jahirul Hasan @ Obaid Hasan gave an iron rod blow over the head of the brother of the informant and thereafter co-accused Munna Mustak @ Fasil and Alimul Hasan gave Iron rod as well as Farsa blow over his head respectively. It is also alleged that co-accused Wasimul Hasan (petitioner no.2) also assaulted his brother by the Butt of country made pistol. It is lastly alleged that the entire occurrence has taken place on account of Panchayat Election rivalry.

Learned counsel appearing on behalf of the petitioners submits that so far the specific allegation of assault is concerned, the same has been attributed against co-accused Sk. Jahirul Hasan @ Obaid Hasan, Munna Mustak @ Fasil and Alimul Hasan. So far these petitioners are concerned, there is general and omnibus nature of allegation, save and except it is alleged that petitioner no.2 assaulted the brother of the informant from the Butt of the country made pistol. Learned counsel for the petitioners also drawn the attention of this Court towards the



post-mortem report, which would suggest that the cause of death is due to Cardiac Arrhythmia, secondary to hypertrophic cardiomyopathy and no external injuries over the head of the deceased was found. It is lastly submitted that the petitioners are in custody since 16.12.2021 and moreover after completion of investigation, charge-sheet has been submitted.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that all the accused persons in furtherance of common intention brutally assaulted the brother of the informant, which resulted into his death. It is next submitted that in fact on account of injuries sustained on the body of the deceased, the death has occurred because of the reasons assigned in the post-mortem report. It is also submitted that so far petitioner nos. 1 and 2 are concerned, they have been found involved in two other cases.

Learned APP for the State also opposes the bail application.

Having regard to the submissions made on behalf of the parties and considering the nature of allegation against the petitioners, as also the post-mortem report, which does not corroborate the prosecution case and moreover the investigation of the crime is already completed and charge-sheet has been



submitted, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) each each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Raxaul, Motihari in connection with Palanwa P.S. Case No. 180 of 2021, 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.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioners. However, the acceptance of bail bonds,



in terms of the above-mentioned order, shall not be delayed for
this purpose or in the name of verification.

(Harish Kumar, J)

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