

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32111 of 2022

Arising Out of PS. Case No.-21 Year-2022 Thana- CHANDAN District- Banka

1. RAJ KUMAR DAS Son of Nand Kishore Das Resident of Village- Guhjora, Police Station - Chandan (O.P. Anandpur), District - Banka.
2. Kanchan Devi wife of Raj Kumar Das Resident of Village - Guhjora, Police Station - Chandan (O.P. Anandpur), District - Banka.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Praveen Kumar

For the Opposite Party/s : Mr.Binod Kumar no.3, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 29-08-2022 The learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Petitioners seek regular bail in a case registered for the offence punishable under Section 302 and other allied sections of the Indian Penal Code.

As per allegation, on 3.2.2022, a kite got stuck in the informant's hut which resulted in incident in between the informant and co-accused persons and thereafter on the next date, the petitioners came at the house of the informant and started abusing and petitioner no.1 gave single lathi blow on the head of the deceased due to which he fell down and when his father came to rescue, the accused persons also assaulted him and during course of



medical treatment, informant's husband died due to head injury.

The main submissions advanced by Sri Praveen Kumar, the learned counsel appearing for the petitioners are that as per allegation made in the FIR, petitioner no. 1 is alleged to have inflicted single lathi blow which shows that he had no intention to kill the deceased and the genesis of the occurrence mentioned in the FIR clearly shows that alleged incident took place at the spur of moment and no injury has been found on the person of the deceased, if the said allegation made in the FIR is considered to be true even then offence against petitioner no.1 comes under the purview of section 304 part II IPC and petitioner no.1 is labourer having clean antecedent. Further submission is that against petitioner no.2 who happens to be wife of petitioner no.1, there is no allegation of assault against her.

Sri Binod Kumar no.3, learned APP appearing for the State has opposed the prayer for bail.

Heard both sides and perused the FIR. Petitioner no.1 is alleged to have inflicted single lathi blow on the vital part of the deceased which resulted in his death and one day before the occurrence a kite got stuck in the hut of the informant which resulted in abusing and **Marpit** between the parties and the said incident is said to be genesis of the occurrence, petitioner no.1 has clean antecedent as mentioned in the petition, against petitioner no.2 there is no serious allegation and as per order of the learned court below,



investigation has been completed and both petitioners are facing trial which appears to be at initial stage.

Considering these facts as well as above submissions in the opinion of this court, a lenient approach can be taken in respect of the petitioners. Let the petitioners be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Banka in Chandan (Anandpur) P.S Case No. 21 of 2022 on the following conditions:-

(1) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

(2) If the petitioners tamper with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.

(3) One of the bailers shall be close relative of the petitioners who has sworn affidavit in this miscellaneous petition.

The court below will verify the criminal antecedent of the petitioners but acceptance of bail bond will not be delayed on account of process of verification of the said criminal antecedent. If any criminal antecedent of the petitioners is found then the court below shall take serious action against them for cancellation of their



bail bond.

(Shailendra Singh, J)

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