

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43522 of 2021

Arising Out of PS. Case No.-205 Year-2020 Thana- PATEPUR District- Vaishali

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1. MACHHU SINGH S/O LAXMI SINGH R/O TEKNARI, P.S.-PATEPUR, DISTRICT- VAISHALI.
 2. NITISH KUMAR S/O MACHHU SINGH R/O TEKNARI, P.S.-PATEPUR, DISTRICT- VAISHALI.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Raj Krishan Jha, Advocate
For the informant	:	Mr. Sanjeev Kumar Singh, Advocate
For the Opposite Party/s	:	Mr.Jharkhandi Upadhyay, A.P.P

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 01-04-2022 Heard learned counsel appearing on behalf of the petitioner and learned A.P.P. for the State.

Let the defect(s) be removed within two weeks of the complete start of the physical Court in normal course.

The petitioners seek regular bail in connection with Patepur P.S. Case No. 205 of 2020, for the offence punishable under Sections 302/34 of the Indian Penal Code.

The prosecution story, in brief, is that petitioners along with other accused persons with a common intention to murder the informant and his father assaulted due to which both of them sustained injury. The father of the informant succumbed to injuries.

Learned counsel appearing on behalf of the petitioners



submits that the so far as petitioner No.1 Machhu Singh is concerned, he is aged about 65 years and only female members are left outside. He submits that the case of the petitioner No.1 be considered, sympathetically, to release him on bail on any terms and conditions imposed by this Court. He has made a specific statement in paragraph No. 3 that petitioner No.1 has clean antecedent and it was the spur of the moment scuffle took place and the deceased sustained injuries. He further submits that petitioner No.1 is in custody since 18.05.2021 and petitioner No.2 is in custody since 17.04.2021.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner and submits that with common intention all the accused persons named in the F.I.R. had assaulted the deceased in which he succumbed to injuries, although, there is specific allegation against petitioner No.2 Nitish Kumar that he had assaulted on the head of deceased by means of lathi, danda, stone and bricks. The Postmortem report supports the said fact that there are four injuries on the person of the deceased and as such petitioners do not deserve to be enlarged on bail.

Considering the specific statement made by learned counsel appearing on behalf of petitioner that so far as petitioner



No.1 is concerned, he is the head of the family and aged about 65 years. There is no allegation of tampering the evidence or influencing the witnesses and trial is also not likely to conclude in near future. The petitioner No.1 Machhu Singh, above named, is directed to be enlarged on bail on furnishing bail bond of Rs. 25000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M-III, Vaishali at Hajipur in connection with Patepur P.S. Case No.205 of 2020, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

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

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

So far as petitioner No.2 namely Nitish Kumar is concerned, considering the facts and circumstances of the case



and seriousness of the allegation made against him, I am not inclined to enlarge the petitioner No.2 on bail. Accordingly, the prayer for grant of bail to the petitioner No.2 Nitish Kumar is **rejected.**

(Purnendu Singh, J)

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