

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44615 of 2021

Arising Out of PS. Case No.-137 Year-2020 Thana- HUSSAINGANJ District- Siwan

1. LAXMAN YADAV Son of Swarup Yadav Resident of Village - Parari, P.S. - M. H. Nagar, District - Siwan.
2. Indal Yadav Son of Shivji Yadav Resident of Village - Parari, P.S. - M. H. Nagar, District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shailendra Kumar Singh, Advocate
		Mr. Angad Kunwar, Advocate
For the Opposite Party/s	:	Mr. Prashant Kumar, Advocate
For the State	:	Mr. Ajit Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 22-03-2022 Heard learned counsel appearing on behalf of the petitioners, learned counsel appearing on behalf of the informant and learned APP for the State.

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

Petitioners, who are in custody since 10.01.2021, seek regular bail in connection with Hussainganj (M.H. Nagar) P.S. Case No. 137 of 2020 registered for offences punishable under Sections 341, 323, 307, 302, 504 and 507/34 of the Indian Penal Code.

Prosecution story in brief is that altercation took place between the parties for doing earth work. It has been alleged that Laxman Yadav (petitioner no.1) and Rajesh Yadav had



assaulted the informant and his sister-in-law and other co-accused persons including the petitioner no.2 (Indal Yadav) had assaulted Ram Nath Yadav, who succumbed to injury. There is allegation against petitioner no.2 that he had assaulted Ram Nath Yadav (deceased) by means of rod.

Learned counsel appearing on behalf of the petitioners submits that so far as petitioner no.1 is concerned, allegation is that he has assaulted the informant and his sister-in-law and from very perusal of the medical report it appears that doctor has opined that injury sustained by the sister-in-law of the informant is simple in nature. However, the informant declined to get himself appear before the Primary Health Centre, Hussainganj. He further submits that petitioner no.1 has clean antecedent. So far as petitioner no. 2 namely, Indal Yadav is concerned, allegation is that he along with other co-accused namely, Mukesh Yadav, Rakesh Yadav and Awadhesh Yadav had assaulted Ram Nath Yadav (deceased), who is the father of the informant, by means of *lathi*, *danda* and rod due to which he sustained head injury and succumbed to injury in course of treatment. His specific submission is that there is general and omnibus allegation against all the accused persons who have assaulted Ram Nath Yadav and no specific overt act has been



attributed to the present petitioner. Two co-accused namely, Suganti Kumari and Kulwanti Devi, who had also assaulted the deceased Ram Nath Yadav have already been enlarged on bail vide order dated 09.04.2021 passed in 33959 of 2020 by a co-ordinate Bench of this Court. Petitioners are in custody since 10.01.2021 petitioner has no criminal antecedent and is fit to be released on bail by imposing any condition.

Sri Prashant Kumar, learned counsel appearing on behalf of the informant has vehemently opposed the prayer for grant of bail to the petitioner. So far as petitioner no.2 (Indal yadav) is concerned his submission is that from perusal of the post-mortem report the doctor has opined that cause of death is due to hard and blunt substance and petitioner no. 2 has been seen by the eye-witnesses of the present case that by means of blow of rod, father of the informant sustained head injury and in course of treatment he succumbed to the same and as such the petitioner no.2 (Indal Yadav) does not deserve to be enlarged on bail. His argument is supported by Sri Ajit Kumar, learned A.P.P. for the State.

Considering the facts and circumstances of the case, having perused the allegation made in the F.I.R. and material which has surfaced in course of investigation, I am of the



opinion that petitioner no.1 (Laxman Yadav) has prima facie made out a case to be enlarged on bail. The Court below is directed to release the petitioner no.1 (Laxman Yadav) on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M., VIII, Siwan in connection with Hussainganj (M.H. Nagar) P.S. Case No. 137 of 2020 subject to the following conditions:

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

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

(iii) 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.

(iv) 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 bond.

So far as petitioner no. 2 namely, Indal Yadav is concerned, I am not inclined to enlarge at this stage considering the serious nature of allegation made against him.



However, the learned Court below is directed to conclude the trial within a period of nine months.

If no substantial progress takes place in conduct of trial, the petitioner no.2 namely, Indal Yadav, if so advised, may renew his prayer for bail after the aforesaid period.

Superintendent of Police, Siwan, is directed to produce all the prosecution witnesses on the date fixed by the trial Court without fail.

A copy of this order may be communicated to the Superintendent of Police, Siwan.

(Purnendu Singh, J)

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