

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46885 of 2021

Arising Out of PS. Case No.-82 Year-2020 Thana- BATHNAHA District- Sitamarhi

1. KAPAL RAI Son of Late Biltu Rai Resident of Village - Nathu Tola, P.S.- Bathnaha, Distt.- Sitamarhi.
2. Ganesh Rai Son of Late Biltu Rai Resident of Village - Nathu Tola, P.S.- Bathnaha, Distt.- Sitamarhi.
3. Bindeshwar Rai Son of Late Biltu Rai Resident of Village - Nathu Tola, P.S.- Bathnaha, Distt.- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Pushpendra Kumar Singh, Advocate.
For the Opposite Party/s :	Mr.Dr. Kumar Uday Pratap, APP.
	Mr. Alok Kumar Alok, Advocate.
	Mr. Abhishek Bharadwaj, Advocate.
	Mr. Santosh Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 25-04-2022 Heard learned counsel appearing on behalf of the petitioners and learned A.P.P. for the State.

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

The petitioners seek regular bail in connection with Bathnaha P.S. Case No. 82 of 2020 for the offence punishable under Sections 341, 323, 379, 324, 354, 307, 504 and 506/34 of the Indian Penal Code. Later on Section 302 IPC was added.

The prosecution story, in brief, is that the accused



persons named in the F.I.R. with an common intention assaulted on the head of the bhagina of the informant due to previous land dispute. Informant is the eye witness of the alleged occurrence. Altogether 12 persons have been named in the present F.I.R. All of them were armed with lethal weapon and assaulted the bhagina of the informant, who in course of treatment succumbed to the injuries after seven months. Autopsy of the body was done on 13.12.2020 at Sadar Hospital, Sitamarhi. One injury was found on the person of the deceased.

Learned counsel appearing on behalf of the petitioners submits that there is general and omnibus allegation against all the three petitioners. From the injury report, it appears that there is only one injury sustained by the deceased. There is no specific allegation against any of the present petitioners to have assaulted on the body of the deceased. Altogether 12 persons have been made accused in the present case. Admittedly, there is land dispute between the parties.

Mr. Abhishek Bharadwaj, learned counsel appearing on behalf of the informant has vehemently opposed the prayer for grant of bail to the petitioner. Learned APP has submitted that there is direct allegation against all the petitioners to have committed the murder of the bhagina of the informant with a



common intention.

I have perused the allegation made in the F.I.R. No specific overt act has been alleged against the above named petitioners. Allegation is general and omnibus against all the 12 persons named in the F.I.R. that they with common intention committed murder. Post mortem reveals one injury and the victim died in course of treatment due to Sepsicemia. Prima facie, the petitioners have made out a case to be released on bail.

The petitioners, above named, are directed to be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned CJM, Sitamarhi in connection with Bathnaha P.S. Case No. 82 of 2020, subject to the following conditions:-

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

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

(3) If the petitioners tamper 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 petitioners.



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

(5) **The court below is directed to verify the criminal antecedent of the petitioners and if it is found that the petitioners are involved in some other cases as what has been stated in Para-3 of the bail petition, this order will automatically loose its force.**

(Purnendu Singh, J)

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