

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37767 of 2022

Arising Out of PS. Case No.-79 Year-2022 Thana- PARAIYA District- Gaya

1. Lal Babu Yadav, S/o Bhagwat Yadav
 2. Amar Yadav @ Amar Kumar @ Amar Kumar Yadav, S/o Rajdev Yadav
Both Resident of Village- Dumra, P.s.- Paraiya, District- Gaya
- Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Durgesh Nandan, Advocate
For the State	:	Mr. Md. Anbzarul Haque Sahara, APP
For the Informant	:	Ms. Roona, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

- 2 27-09-2022 Heard Mr. Durgesh Nandan, learned counsel for the

petitioners, Ms. Roona, learned counsel for the informant and

the learned APP for the State.

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

The petitioners are in judicial custody in connection
with Paraiya P.S. Case No.79/2022 instituted under Section
302/34 of the Indian Penal Code.

The prosecution story, as alleged in FIR is that on the
day of alleged occurrence, at about 04:05 P.M., there was a
programme for breaking of the 'Matka' on the eve of Holi.
However, named accused persons reached there and Vijay
Yadav, Binod Yadav, Shivshankar Yadav, Lal Babu Yadav
(Petitioner No.1) and Amar Yadav (Petitioner No.2) as also 5-10



persons assaulted informant's father namely Shiv Bhagat Sao. Further Vijay Yadav and Binod Yadav put 'Gamchha' around the neck of the informant's father and pulled the same from opposite direction, as a result of which his father became unconscious. Thereafter, all the named-accused persons assaulted with fists and slaps. The police reached who took his injured father to PHC, Paraiya for treatment and thereafter to ANMM College and Hospital, Gaya for better treatment on 21.03.2022 but the father of the informant died during treatment. Accordingly, the FIR was lodged.

Learned counsel for the petitioners submit that there is case and counter case and bare perusal of the FIR would show that specific allegation is against Binod Yadav and Vijay Yadav that they used 'Gamchha' in such a way that the neck of the informant's father was choked which ultimately led to his death. So far as the other accused persons are concerned, only omnibus allegation of assault is there. He lastly submits that petitioners are in custody since 15.05.2022 and 25.05.2022 respectively although he concedes that they do have criminal antecedents.

Ms. Roona, learned counsel for the informant on the other hand submits that the role of these petitioners cannot be ignored inasmuch as beside the allegation of assault against



them, their presence emboldened Binod Yadav and Vijay Yadav to cause the death of informant's father.

Be that as it may, the specific allegation is against Binod Yadav and Vijay Yadav of causing the death of the informant's father, the two petitioners are in custody since 15.05.2022 and 25.05.2022, charge-sheet stands submitted, this Court is inclined to grant them privilege of bail subject to certain conditions in view of the fact that they do have criminal antecedents.

Let both the petitioners be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each in connection with Paraiya P.S. Case No.79/2022 to the satisfaction of learned Judicial Magistrate, Ist Class, Gaya, subject to following conditions:

(i) one of the bailor should be the family member of the petitioners, who shall provide official document to show his/her bona fide;

(ii) the petitioners shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail by the Trial court itself;

(iii) the petitioners shall leave the district (Gaya) for a



period of two month(s) after providing name and address and police station of his place of stay during the said period and he shall be duty bound to visit the police station (where he will stay) every week to mark his attendance;

(iv) upon return to his district, he shall visit the concerned police station every fortnight for the next six months;

(v) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of their bail bonds;

(vi) the petitioners shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of their bail bonds.

Before parting, this Court would like to put on record its word of appreciation for Ms. Rooma, learned counsel appearing on behalf of the informant for the proper assistance rendered in the matter.

(Rajiv Roy, J)

Prakash Narayan /-

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