

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48160 of 2021

Arising Out of PS. Case No.-79 Year-2021 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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1. RAJESH RAJAK Son of Hariram Rajak Resident of Village - Rachiyahi, Dhobi Tola, Ward No.7, P.S.- Mufassil (Singhaul O.P), Distt.- Begusarai.
 2. Prakash Kumar Son of Hariram Rajak Resident of Village - Rachiyahi, Dhobi Tola, Ward No.7, P.S.- Mufassil (Singhaul O.P), Distt.- Begusarai.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Ram Sumiran Rai, Advocate
For the Opposite Party/s :	Mr. Shubhesh Panndey, Advocate
	Mr. Dr.Mrityunjaya Kr.Gautam, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 07-04-2022 Heard learned counsel appearing on behalf of the
petitioners 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 07.02.2021, seek
regular bail in connection with Mufassil (Singhaul OP) P.S. Case
No. 79 of 2021 dated 06.02.2021 registered for offences
punishable under Sections 147, 148, 149, 341, 323, 504, 307,
325, 337, 338, 379 and 302 of the Indian Penal Code.

Prosecution story in brief is that on 06.02.2021 at
11.30 A.M., the informant and his father Rajo Rajak were at their
house and in the meantime all named accused persons including
these petitioners started constructing wall on the land of the



informant. When informant and his father objected the said activity then all of them came with iron rod, lathi, danda and bricks and started abusing and one Hareram Rajak assaulted the father of the informant (deceased) with intention to kill with iron rod. Rajesh Kumar also assaulted the deceased with lathi and other co-accused also assaulted the deceased with lathi and danda. All the accused persons also assaulted Meena Devi, Komal Kumari and Santosh when they came to rescue the deceased. In course of scuffle Vikash Kumar snatched the golden chain from the neck of the deceased and Shambhu Rajak snatched ear ring of Meena Devi.

Learned counsel appearing on behalf of the petitioners submits that in restatement, informant has nowhere made any allegation against the petitioner no.1 (Rajesh Kumar). He has completely denied the involvement of the petitioner no.1 in the alleged commission of murder of Rajo Rajak. In paragraph no. 3 of the case diary, inquest report only reveals sign of assault on left side of the face and in the stomach. In paragraph no. 6, one Meena Devi, who has also sustained certain injuries, stated that petitioner no.1 has not committed any assault on the body of the deceased. He refers to paragraph nos. 43 and 44 of the case diary where the witnesses have made their specific statement that the alleged occurrence took place due to long standing land dispute



but he is not able to bring on record any case lodged in this regard. All the injuries which have been found in the post-mortem is not attributed to the present petitioners.

Sri Shubhesh Pandey, learned counsel appearing on behalf of the informant submits that there are three injuries which have been found on the body of the deceased and there is specific allegation is against Hareram Rajak that he has assaulted the deceased by means of iron rod while the petitioner no.1 (Rajesh Rajak) has assaulted by means of lathi. From the perusal of post-mortem report it appears that injuries are caused by hard and blunt substance as such the injuries caused by lathi and iron rod have a similar nature so far as petitioner no.1, Rajesh Rajak is concerned, he does not deserve to be released on bail.

Learned A.P.P., for the State has also opposed the prayer for grant of bail to the petitioners.

Considering the aforesaid facts and circumstances of the case and specific allegation made in the FIR by the informant who is the eye witness of the alleged incidence, I am not inclined to enlarge the petitioner no. 1 (Rajesh Rajak) on bail.

So far as petitioner no.2 (Prakash Kumar) is concerned, there is no specific allegation of any assault has been made against him. Prima facie petitioner no. 2 has made out a case to be enlarged on bail. The Court below is directed to



release the petitioner no. 2 namely, Prakash Kumar 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 Chief Judicial Magistrate, Begusarai in connection with Mufassil (Singhaul OP) P.S. Case No. 79 of 2021 dated 06.02.2021 subject to the following conditions:

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

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

(iii) 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.

(iv) 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 bond.

With the above observation, the present bail application is disposed of.

(Purnendu Singh, J)

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