

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48165 of 2021**

Arising Out of PS. Case No.-166 Year-2021 Thana- BUXAR District- Buxar

1. OM NATH @ OM NATH ARYA Son of Vishwanath Arya Resident of Mohalla- Muneem Chowk, Ward No.24, P.S.- Buxar (Town), District- Buxar.
2. Gyanesh @ Ganesh @ Babu Saheb @ Gyanesh Kumar Arya Son of Om Nath @ Om Nath Arya Resident of Mohalla- Muneem Chowk, Ward No.24, P.S.- Buxar (Town), District- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Rajeev Ranjan, Advocate
For the informant	:	Mr. Bipin Kumar, Advocate
For the Opposite Party/s	:	Mr.Syed Mojibur Rahman, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER**

3 26-04-2022 Heard learned counsel for the petitioners and learned A.P.P. for the State.

The petitioners, who are in custody since 15.03.2021 seeks bail in connection with Buxar (Town) P.S. Case No. 166 of 2021, registered for the offence punishable under Sections 147, 149, 341, 323, 448 and 302 of the Indian Penal, pending in the Court of learned Chief Judicial Magistrate, Buxar.

The prosecution case, in brief, is that on 14.03.2021 at about 3.00 P.M. while informant along with her husband Om Babu (deceased) were present at home, all the accused persons named in the F.I.R. including the petitioner arrived there and started to assault the husband of the informant as a result of



which her husband sustained serious injuries on his chest and abdomen. Thereafter, all the accused persons dragged down the husband of informant from stairs. The husband of informant succumbed to his injuries.

Learned counsel appearing on behalf of the petitioners submits that the only allegation against the petitioner No.1 Om Nath @ Om Nath Araya is that he caused hindrance by not allowing the family members of the deceased to save him while the alleged murder was being committed by the accused persons. He further submits that the other co-accused Chandani Devi and Priyanka Devi, against whom the similar allegation has been levelled that they also made hindrance at the door and had not allowed the family members to enter into the place of occurrence to save the deceased, have already been allowed the privilege of bail by this Court vide order dated 21.02.2022 passed in Criminal Miscellaneous No. 41408 of 2021. The petitioners are in custody since 15.03.2021.

Sri Bipin Kumar, learned counsel appearing on behalf of informant vehemently opposed the prayer for grant of bail to the petitioner and submits that so far as bail prayer of Priyanka Devi passed in Criminal Miscellaneous No. 41408 of 2021 is concerned, the petitioner cannot claim parity as the said



Priyanka Devi is having one infant baby and considering the said fact, she was enlarged on bail by this Court.

Learned A.P.P. for the State also supported the submission made by Sri Bipin Kumar, learned counsel appearing on behalf of informant.

Having heard the rival submission made by the parties the allegation against the petitioner No.1 Om Nath @ Om Nath Aray is that he resisted the the family members of the deceased to save him while the accused persons named in the F.I.R. were brutally assaulted the deceased. The petitioner no.1 claims parity to be released on bail on the basis of the nature of allegation made against co-accused Priyanka Devi, who has been admitted to bail. The petitioner is aged about 77 years old and there is no allegation of committing any assault to the deceased, prima facie, the petitioner No.1 has made out a case to be released on bail, the petitioner No.1 Om Nath @ Om Nath Arya, 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 Chief Judicial Magistrate, Buxar in connection with Buxar (Town) P.S. Case No. 166 of 2021, 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 the bail prayer of petitioner No.2 namely Gyanesh @ Ganesh @ Babu Saheb @ Gyanesh Kumar Arya is concerned, there is direct allegation against him to cause brutal murder of the deceased, I am not inclined to enlarge the petitioner No.2 namely Gyanesh @ Ganesh @ Babu Saheb @ Gyanesh Kumar Arya. Accordingly, his prayer for grant of bail is **rejected**.

(Purnendu Singh, J)

manish/-

U		T	
---	--	---	--

