

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50487 of 2021

Arising Out of PS. Case No.-39 Year-2020 Thana- MEHUSH District- Sheikhpura

1. Shantu Singh @ Shantu Kumar, S/o Surendra Singh, Resident of Village- Mafo, P.S. - Mehush, District- Sheikhpura.
2. Naveen Sharma @ Naveen Kumar, Son of Mr. Surendra Singh @ Nawal Singh, Resident of Village- Mafo, P.S. - Mehush, District- Sheikhpura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mrs. Vaishnavi Singh, Advocate
For the Opposite Party/s	:	Mr. Nagendra Prasad. APP
For the Informant	:	Mr. Dinkar Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 16-08-2022 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Ajay Kumar Thakur, learned counsel appearing on behalf of the petitioners and Mr. Dinkar Kumar, learned counsel for the informant as well as learned APP for the State.

The petitioners seek regular bail, who are in custody in connection with Mehush P.S. Case No. 39 of 2020 registered for the offences punishable under Sections 341, 323, 307, 302/34 of the Indian Penal Code and Section 27 of the Arms Act.



As per the prosecution case, it is alleged that while the brother of the informant, namely, Hira Kumar and one Avanish Kumar were going on a motorcycle, in the meantime, they were intercepted by one Lali Kumar @ Lal Singh and the petitioners. Thereafter they were taken to village Mafo where allegedly all the F.I.R named accused persons brutally assaulted them by means of lathi and danda. It is also alleged that after sometimes when the brother of the informant died, said Avanish Kumar succeeded in fleeing away and he disclose the entire incidence to the brother of the deceased.

Learned counsel appearing on behalf of the petitioners submits that the entire incidence is said to have been seen by Avanish Kumar, who happens to be friend of the deceased and he has categorically stated that he was not knowing the name of anyone, however, while the accused persons were taking the name of each other, he has learnt the name of the petitioners and others. It is further submitted that in his statement recorded under Section 161 of the Cr.P.C. he has categorically stated that the deceased was continuously beaten and assaulted by all the accused persons for about four hours, but surprisingly the post-mortem report does not support the statement of the eye-witness, as only three injuries have been found over the body of



the deceased. It is further submitted that the post-mortem report also suggests that death has occurred on account of strangulation, which is not the case of the prosecution and, as such, the post-mortem report demolishes the entire prosecution case. Learned counsel appearing on behalf of the petitioners also drawn the attention of this Court towards the inquest report, which suggests that the deceased died on account of firearm injuries, but the post-mortem report does not corroborate the case of any injury caused by firearm. It is also submitted that co-accused Lali Kumar @ Lal Singh, against whom there was identical allegation, has been granted bail by learned Trial Court itself vide order dated 20.03.2021. It is next submitted that the falsity of the prosecution case is also evident from the fact that the said Avanish Kumar was also examined by the doctor, but no injury, whatsoever has been found over his body. It is lastly submitted that the petitioner no.1 has been made accused in Mehush P.S. Case No. 24 of 2020 registered for the offences under Sections 307/149 and other allied sections of the Indian Penal Code. So far as petitioner no.2 is concerned, he has fair antecedent.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that there



is specific allegation against the petitioners that they have brutally assaulted the brother of the informant resulting into his death. It is also submitted that during the course of investigation witnesses have supported the case and the post-mortem report also suggests that there is mark of bruise and penetrating wound over the shoulder and thigh of the deceased.

Having regard to the submissions made on behalf of the parties and considering the fact that the post-mortem report does not support the prosecution case, inasmuch, as the story narrated by Avanish Kumar is neither supported by the injury report as well as the post-mortem report of the deceased, who is said to be the eye witness to the alleged occurrence and moreover co-accused, having identical allegation, has already been granted by the learned Court below itself and both the petitioners are in custody since 24.03.2021 and till date even after framing of the charges, no witness has been examined, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees Twenty Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-I, Sheikhpura in connection with Mehush P.S. Case No. 39 of 2020, subject to the condition that one of the bailors will be the close relative of



the petitioners with further conditions which are as follows:-

(i) The petitioners will cooperate in conclusion of the trial.

(ii) They will remain present on each and every date of trial till disposal of the case.

(iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(Harish Kumar, J)

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