

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51038 of 2021

Arising Out of PS. Case No.-31 Year-2021 Thana- GURUA District- Gaya

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1. Nageshwar Yadav Son of Late Matan Yadav Resident of Village- Mahadevpur Kala, P.S.- Gurua, District- Gaya.
 2. Upendra Yadav Son of Shivu Yadav Resident of Village- Mahadevpur Kala, P.S.- Gurua, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manish Kumar No. 2, Advocate
For the Informant	:	Mr. Javed Jafar Khan, Advocate
For the Opposite Party/s	:	Mr. Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 24-02-2022 Heard learned counsel for the petitioners, learned counsel for the informant and Shri Chandra Bhushan Prasad, learned A.P.P. for the State.

The petitioners seek bail in connection with Gurua P.S. Case No. 31 of 2021 instituted for the offences under Sections 302 and 34 of the Indian Penal Code.

Learned counsel for the petitioners submits that the petitioners are in custody since 05.04.2021, charge-sheet has been submitted in the case, petitioner no.2 is a person with clean antecedent and petitioner no.1 has antecedent of two cases, one of the year 1995 and other of the year 2000.

Learned counsel for the petitioners submits that the



informant in the F.I.R. alleges that he along with brother Sunil Yadav (deceased) and cousin brother Upendra Yadav had gone to their field for irrigating the wheat crop at about 8.20 pm on 06.02.2021, when the petitioners along with Tulsi Yadav came at 9.20 pm and caught hold of the deceased and on raising alarm, the accused persons pushed the deceased in the well due to which he died and thereafter the accused persons fled after committing the occurrence, further that the occurrence took place on account of admitted previous land dispute between the family of the informant and the petitioners.

Learned counsel for the petitioners submits that the petitioners have been falsely implicated in the case, further it is submitted that as per F.I.R. itself from the side of the informant, the informant, his cousin and his own brother were present and from the side of the petitioners also three persons were present. Learned counsel submits that if the petitioners had caught the brother of the deceased then the informant and his cousin brother ought to have helped him but instead of helping, they fled away from the place of occurrence fearing that they might also be assaulted/killed. Learned counsel further submits that from perusal of the paragraph '5' of the case diary, it would manifest that the place of occurrence has been described by the



Investigating Officer and from perusal of the same it would manifest that the alleged well is situated near the field of the informant from which water was being taken for irrigating the field, further the well did not have any boundary, it is thus submitted that it may be possibility that the deceased while irrigating the field slipped in the well in absence of boundary and informant took it as an opportunity to implicate the petitioners falsely on account of land dispute. Learned counsel submits that even the postmortem report does not record any kind of external injury on the body of the deceased which further goes to show that the occurrence took place in some other way and the petitioners came to be implicated by way of afterthought. Learned counsel further submits that by the death of the deceased ultimate beneficiary is the informant as the property is now devolved to him.

Learned counsel for the informant and learned A.P.P. for the State vehemently oppose the prayer for bail of the petitioners. Learned A.P.P. does not dispute the submissions made by the learned counsel for the petitioners with regard to the place of occurrence as described by the I.O. in the case diary but opposes the bail application on the ground that there is an allegation against them. Learned counsel for the informant also



adopts the same view but both are not in a position to meet the submissions of the learned counsel for the petitioners with regard to the injury report and the fact that when three persons from both sides were present, then why no attempt was made to save the deceased.

Considering the fact that the petitioners are in custody since 05.04.2021, charge-sheet has been submitted in the case, the petitioner no.2 being a person with clean antecedent and as far as petitioner no.1 is concerned, he has antecedent of two case but are of the year 1995 and 2000 and also taking into consideration the submissions made by the learned counsel for the petitioners, let the petitioners above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of Shri Sunil Kumar Singh, learned Judicial Magistrate-1st Class, Sherghati, Gaya in connection with Gurua P.S. Case No. 31 of 2021.

(Satyavrat Verma, J)

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