

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53193 of 2021

Arising Out of PS. Case No.-15 Year-2021 Thana- SARAIYA District- Muzaffarpur

1. Prabhu Rai, Son Of Jagdish Rai Resident Of Village-Ginjas, P.S- Saraiya, Dist- Muzaffarpur
2. Jitendra Kumar Patel, Son Of Prabhu Rai Resident Of Village -Ginjas PS -Saraiya Dist -Muzaffarpur
3. Nitesh Kumar Patel, Son Of Prabhu Rai Resident Of Village Ginjas- Ps - Saraiya District - Muzaffarpur

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 52615 of 2021

Arising Out of PS. Case No.-15 Year-2021 Thana- SARAIYA District- Muzaffarpur

1. Vinay Kumar Patel @ Binay Kumar, Son Of Ramlal Rai R/O Village- Ginjas Khas, P.S.- Saraiya (Jaitpur O.P.), Dist.- Muzaffarpur
2. Ramlal Rai, Son Of Rajendra Rai R/O Village- Ginjas Khas, P.S.- Saraiya (Jaitpur O.P.), Dist.- Muzaffarpur

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 53193 of 2021)

For the Petitioner/s : Mr. N. K. Agrawal- Sr. Advocate
Mr. Prashant Kumar

For the Opposite Party/s : Mr. Shivendra Kumar Sinha
Mr. Ranjeet Patel
Mr. Ramchandra Sahni

(In CRIMINAL MISCELLANEOUS No. 52615 of 2021)

For the Petitioner/s : Mr. N. K. Agrawal- Sr. Advocate
Mr. Manoj Kumar

For the Opposite Party/s : Mr. Ajay Kumar No. 2
Mr. Shivendra Kumar Sinha
Mr. Ranjeet Patel

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 04-07-2022 Vide order dated 28.04.2022 in Cr. Misc. No.53193 of



2021, the anticipatory bail application of petitioner no.3, namely, Nitesh Kumar Patel was withdrawn.

For the sake of convenience, both the petitions are taken together for order.

Heard learned senior counsel for the petitioners and learned APP for the State.

The petitioners seek bail in anticipation of their arrest in a case registered for the offences punishable under Sections 302/ 34 of the Indian Penal Code.

The learned senior counsel for the petitioners submits that the petitioners are persons with clean antecedent and the informant alleges that on the date of occurrence in the evening, she came to know that all the accused persons have assaulted her son at her door. Thereafter, she reached the place of occurrence and took her son in an injured condition to a private hospital for treatment where he died on 04.01.2021 during course of treatment.

The learned senior counsel for the petitioners submits that from bare perusal of the allegation as alleged in the F.I.R., it would manifest that the date of occurrence is 27.12.2020 and the F.I.R. was instituted on 04.01.2021 i.e. after a delay of nearly nine days without any plausible explanation and it is next



submitted that if what has been alleged in the F.I.R. is true, then definitely a police case was made out in the nature of allegation, but the hospital even did not inform the police when the deceased was admitted by the informant nor the informant made any endeavour to inform the police. It is next submitted that from perusal of the allegation as alleged in the F.I.R., it would also manifest that informant is not an eye witness to the occurrence, as such, naming eight accused persons prima facie shows that the allegations are general and omnibus and that too, by a person, who is not witness to the occurrence.

The learned senior counsel next submits that from perusal of the post mortem report, it would manifest that the same records that no ante-mortem injuries were found on the body of the deceased. It is thus submitted that if what has been alleged in the F.I.R. is true, then definitely some ante-mortem injuries should have been present on the deceased.

The learned counsel for the informant as well as learned A.P.P. opposes the bail application, but are not able to meet the submission of the learned counsel for the petitioners that neither the hospital nor the informant informed the police about the occurrence..

Considering the submissions made by the learned



counsel for the petitioners, the petitioners, above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with Saraiya (Jaintpur P.O.) P. S. Case No.15 of 2021, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

The application stands allowed.

(Satyavrat Verma, J)

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