

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56094 of 2021

Arising Out of PS. Case No.-34 Year-2020 Thana- PAKARIBARAW District- Nawada

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1. Sonu Kumar Son Of Devendra Yadav @ Devendra Prasad Resident Of Village- Dhamaul, P.S.- Pakribarawan, District- Nawada.
 2. Chandan Kumar @ Chando Yadav @ Chandan @ Chando Son Of Devendra Yadav @ Devendra Prasad Resident Of Village- Dhamaul, P.S.- Pakribarawan, District- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Advocate.

For the Opposite Party/s : Mr. Sanjay Kumar Sharma, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 17-05-2022 Learned counsel for the petitioners is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Birendra Kumar, learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State.

The application for grant of regular bail to the petitioners, above named, who have been made accused and put behind the bar in connection with Pakribarawan (Dhamaul) P. S. Case No. 34 of 2020 registered for the offences punishable under Sections 324, 325, 307 read with 34 of the Indian Penal Code, later on vide order dated 04.01.2021 Section 302 of the



Indian Penal Code has been added.

As per the prosecution case, it is alleged that on 09.02.2020, while father of the informant had gone for irrigation in his field, some unknown persons apprehended him and brutally assaulted in the night. On *hulla*, the informant came to know in the morning of 10.02.2020 that his father was assaulted, rushed to the field where he saw that his father was breathing at random and thereafter, he was taken for treatment.

Learned counsel appearing on behalf of the petitioners submits that admittedly the incidence has taken place on 09.02.2020 and the F.I.R. has been instituted on 15.02.2020 on the basis of a written application filed by the informant on 15.02.2020 against unknown persons. It is submitted that there is a land dispute and the petitioners happen to be *gotiya* of the informant and there is a title suite pending between the parties. It is further submitted that during the course of investigation, it has come that the father of the informant re-gain his consciousness for a while before his death and his *fardbayan* has been recorded on 14.04.2020 wherein he has stated that his *gotiya* Chando Yadav, Devendra yadav, Uday Yadav and Sonu Yadav brutally assaulted to him but surprisingly there is neither any statement of the treating doctor nor any person, who has



stated that the deceased was, in fact, in a condition to narrate the incidence or not. It has also come during the investigation that this informant had already informed the Police on 03.03.2020 that his father has re-gain his consciousness for a while and he had also disclosed the name of four persons including this petitioners. It is next submitted that neither the informant nor any independent witness had seen the occurrence and only on the basis of suspicion the name of the petitioners and other family members have been implicated in this case and both these petitioners having clean antecedent and are in custody since 02.07.2021, though the investigation has already been completed and the charge-sheet has been submitted in the matter.

On the other hand, learned APP for the State opposes the bail application and submits that during the course of the treatment, the statement of the deceased was recorded on 14.04.2020 and he himself stated before the Police that these petitioners and two other person have assaulted him brutally causing grievous injuries which ultimately resulted into his death.

Having considered the submissions made on behalf of the parties and taking into account the fact that the informant



is not an eye witness to the occurrence which has taken place on 09.02.2020 for which the F.I.R. has been instituted on 15.02.2020 and there is no examination of any treating doctor, for the veracity or genuineness of the alleged *fardbayan* of the deceased as to whether the deceased was, in fact, in a condition to narrate the incidence or not and moreover, both these petitioners having clean antecedent and are in custody since 02.07.2021, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Nawada in connection with Pakribarawan (Dhamaul) P. S. Case No. 34 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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