

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45203 of 2022

Arising Out of PS. Case No.-230 Year-2022 Thana- MASHRAK District- Saran

1. Brij Kishore Mahto Son Of Late Bharat Mahto R/O Village- Gangauli, P.S.- Masrakh, District- Saran At Chapra
2. Ajit Mahto Son Of Brij Kishore Mahto R/O Village- Gangauli, P.S.- Masrakh, District- Saran At Chapra
3. Govind Kumar Son Of Tarkeshwar Mahto R/O Village- Gangauli, P.S.- Masrakh, District- Saran At Chapra
4. Rahul Kumar Son Of Tarkeshwar Mahto R/O Village- Gangauli, P.S.- Masrakh, District- Saran At Chapra

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shankar Kumar
For the Informant	:	Mr. Lalmani Sharma
For the Opposite Party/s	:	Mr. Nawal Kishore Prasad

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 23-11-2022 The case has been taken up on mentioning on the ground of examination of accused, namely, Ajit Mahto, the petitioner no.2, scheduled to commence on 25th of November, 2022.

The petitioners seek bail in connection with Mashrakh P.S. Case No. 230 of 2022, registered for the offences punishable under Sections 341, 323, 302 and Section 34 of the Indian Penal Code, 1860.

The prosecution as emerging from the FIR is that



accused-petitioner along-with co-accused assaulted the alleged victim by lathi-danda and pistol resulting into death of the victim on the way to hospital.

The learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in this case on account of land disputes. He further submits that they are close family members and in fact death of the alleged victim is not due to any injury but it is a natural death. He refers to the post-mortem report filed, as per which, there is no visible injury on the dead body of the alleged victim and the cause of death is cardiac arrest. Charge-sheet has been submitted by the police against four accused persons who are petitioner herein only under section 341, 323, 504, 337 read with section 34 of the Indian Penal Code and they have been languishing in jail since 18.05.2022. He also submits that one petitioner, Sri. Ajit Mahto is going to take examination on 25th November, 2022.

It is also stated in paragraph no. 2 of the petition that the petitioners have not moved earlier either for grant of anticipatory bail or regular bail.



It has further been stated in paragraph no. 3 of the petition that the petitioner no.1, namely, Brij Kishore Mahto was earlier made accused in Mashrakh P.S. Case No. 142 of 2011 registered under Sections 25(1-b)a, 26 and Section 35 of the Arms Act and Sections 20 and 22 of the N.D.P.S Act whereas petitioners no 2, 3 and 4 have no criminal antecedents.

However, Id. APP for the State as well as Id. Counsel for the Informant vehemently oppose the prayer of the petitioner for bail submitting that the alleged offence is serious in nature.

Considering the aforesaid facts and circumstances, the petitioners, above-named, are directed to be released on bail on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the Id. I/C J. M. 1st, Saran at Chapra in connection with Mashrakh P.S. Case No. 230 of 2022 on the following conditions:

(i) The petitioners will make themselves available for interrogation by a police officer/court as and when



required.

(ii) The petitioners will undertake that investigation/trial will not hamper on account of their absence or non-cooperation. They must be available to the police or the court whenever their presence is required.

(iii) The petitioners shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the petitioners have criminal antecedent other than the disclosed one, the learned court below shall cancel the bail bond of the petitioners after hearing them and getting satisfied that the petitioners have concealed their criminal antecedent despite their knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, the learned court below shall cancel the bail bond of the petitioners.



The application stands allowed accordingly.

It is cautioned that in case copy of charge-sheet and post-mortem report filed by the Id. counsel for the petitioners is found to be false, contempt of Court proceeding would be initiated against the Id. counsel for the petitioner as well as the petitioner.

The learned counsel for the petitioners is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J)

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