

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55968 of 2021

Arising Out of PS. Case No.-177 Year-2021 Thana- BRAHMPUR District- Buxar

1. Jay Singh Yadav @ Jay Singh @ Jai Singh Yadav Son Of Late Shiv Parasan Yadav R/O Village- Nimej, P.S.- Brahampur, District- Buxar
2. Ravi Yadav @ Ravi Shankar Kumar Singh Son Of Hareram Yadav R/O Village- Nimej, P.S.- Brahampur, District- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y.C. Verma, Sr. Advocate.
For the Opposite Party/s	:	Mr. Md. Fahimuddin, APP.
For the Informant	:	Mr. Bachan Jee Ojha, Advocate.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 06-09-2022 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. Y. C. Verma, learned senior counsel for the petitioners, Mr. Bachan Jee Ojha, learned counsel for the informant as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioners, above named, who have been made accused and put behind the bar in connection with Brahampur P. S. Case No. 177 of 2021 registered for the offences punishable under Sections 302 read with 34 of the Indian Penal Code.



As per the prosecution case, it is alleged that on 29.03.2021 at about 09:00 P.M. all the F.I.R. named accused persons armed with Farsa, Sword, Bhala, Lathi and Danda in their hands surrounded the son of the informant and on the dictate of Hare Ram Yadav. Petitioner no. 1 armed with sword and petitioner no. 2 armed with Farsa assaulted the son of the informant and thereafter, other co-accused persons have also assaulted him by means of Lathi and Danda, which ultimately resulted into death of the son of the informant.

Learned senior counsel appearing on behalf of the petitioners submitted that from the tenor of the F.I.R., it is evident that the alleged occurrence took place at 09:00 P.M. in the night and on hearing the sound of *hulla*, the informant came after the alleged occurrence and as such, she was not an eye-witness to the alleged occurrence. It is next submitted that though there is allegation against all the accused persons that they have brutally assaulted the son of the informant but surprisingly in course of post mortem only two injuries have been found on the body of the deceased and both of them have caused by hard and blunt substance. It is further submitted that there is counter version of the present case wherein the members of the petitioners' side have also received injuries, however, the



prosecution has failed to explain the injuries sustained over the members of the petitioners. It is last submitted that the petitioners are in custody since 23.05.2021, having fair antecedent.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that specific allegation has been levelled against both the petitioners that they assaulted the deceased by means of Farsa and sword and moreover, the post mortem report also suggests that one of the injuries has incised.

Learned APP for the State also opposes the bail application.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that the informant appears to be not an eye-witness to the alleged occurrence, coupled with the post mortem report, which suggests only two injuries caused by hard and blunt substance, apart from the period of incarceration and fair antecedent of the petitioners, let the petitioners, above named, 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 Chief Judicial Magistrate, Buxar in



connection with Brahampur P. S. Case No. 177 of 2021, 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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