

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.7121 of 2021**

Arising Out of PS. Case No.-199 Year-2020 Thana- MADHUBAN District- East Champaran

1. Aarti Devi W/O Gagandeo Bhagat R/O Chauhaniya, P.S.- Madhuban, Distt- East Champaran
2. Koshila Devi W/O Bishundeo Bhagat R/O Chauhaniya, P.S.- Madhuban, Distt- East Champaran

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Dhurendra Kumar, Advocate
For the Opposite Party/s	:	Mr. Kalyan Shankar, APP
For the Informant	:	Mr. Sharda Nand Mishra, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 19-01-2022 Since petitioner no. 1 has been arrested during pendency of this application, the prayer for anticipatory bail on behalf of petitioner no. 1 has become infructuous.

Learned counsel for the petitioners undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioners, Mr. Sharda Nand Mishra, learned counsel for the informant and Mr. Kalyan Shankar, learned APP for the State

The petitioner no. 2 in the present case is seeking anticipatory bail in connection with Madhuban P.S. Case No. 199 of 2020 registered for the offences punishable under Section 302/34 of the Indian Penal Code.



Learned counsel for the petitioner no. 2 submits that as per the prosecution story, altogether 3 male members and 2 female members of the family of Gagandeo Bhagat and Bishundeo Singh indulged in causing assault on the husband of the informant. It is alleged that they were lased with lathi and were inflicting blows on the husband of the informant as a result whereof he fell down and become unconscious. It is then alleged that co-accused Gagandeo Bhagat was saying that today he should be killed. In the FIR itself, the informant has stated that on hearing the cry of her husband when she and her son came out of their house, they found that her husband was lying unconscious and all the accused persons were assaulting him.

Learned counsel for the petitioner no. 2 submits that the allegations are general and omnibus. The *post-mortem* report of the deceased shows one lacerated wound over right side of the head and one swelling on the right parietal region of the head. It is his submission that the repeated lathi assault by 5 accused persons are not suggested in the *post-mortem* report and it seems that the only lathi blow proved fatal to the life of the husband of the informant.

This Court called upon Mr. Kalyan Shankar, learned APP to inform from the records in his hand as to whether the



post-mortem report shows only one lacerated wound and one swelling on the body of the deceased. Mr. Kalyan Shankar has accepted that the *post-mortem* report shows the above-mentioned injuries.

At this stage, Mr. Sharda Nand Mishra, learned Advocate for the informant intervened to oppose the prayer for bail of the petitioner no. 2. It is his submission that in Cr. Misc. No. 8072 of 2021 a learned Co-ordinate Bench has though granted bail to some of the co-accused but the prayer for bail of co-accused Gagandeo Bhagat has been rejected and in the said order, it is mentioned in the form of submission of learned APP for the State and learned counsel for the informant that the deceased had sustained 3 injuries. When this Court called upon Mr. Mishra to say as to how he had taken this stand that there are 3 injuries on the body of the deceased, he says that he had not seen the *post-mortem* report and it is not with him.

In the facts and circumstances and in the nature of the materials showing that there are general and omnibus kind of allegations against petitioner no. 2 and the dispute seems to have taken place on account of land dispute between the two co-sharers, the *post-mortem* report is not suggesting the manner of occurrence as alleged, at this stage, this Court directs that in the



event of her arrest or surrender within four weeks from today the petitioner no. 2 namely Koshila Devi W/O Bishundeo Bhagat be released on bail on furnishing of bail bond of Rs.25,000/- (Rupees Twenty Five Thousand/-) with two sureties of the like amount each to the satisfaction of learned A.C.J.M-4, Motihari in connection with Madhuban P.S. Case No. 199 of 2020, subject to the conditions as laid down under Section 438(2) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner no. 2 and in case at any stage it is found that the petitioner no. 2 has concealed her criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner no. 2. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

