

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28985 of 2023**

Arising Out of PS. Case No.-153 Year-2021 Thana- KATORIYA District- Banka

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1. KISHAN RAI S/O-AKLU RAI Village- Khadipar Ps- Katoria Dist- Banka
 2. Nago Rai son of Mangru Rai Village- Khadipar Ps- Katoria Dist- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pranav Kumar Jha, Advocate
For the Opposite Party/s : Mr. Anil Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 08-09-2023 Heard the parties.

2. The petitioners are in custody in connection with Katoria P.S. Case No. 153 of 2021 for the offence under sections 147, 148, 149, 341, 323, 307, 302, 326, 324 and 120B of the Indian Penal Code lodged on 10.06.2021 by the informant, Nirmala Devi.

3. As per the prosecution story, the informant alleged that when Tentu Rai and Ranjit Rai had gone to purchase goat, the accused persons including the petitioner slit the throats of both of them and they died on the spot. while some other also got injured. Accordingly the FIR.

4. Learned counsel for the petitioner submits that the



informant is not an eye witness. Further, the witnesses have named one Prakash Ray and Naresh Ray to be the person who slit the throat. This submission has been made by him on the basis of paragraph 12 that has been incorporated in the petition.

5. It is his further submission that that the similar situate Vinda Rai and Mangam Rai have since been granted bail vide Cr. Misc. No. 8105 of 2022 (Annexure-2 to the petition).

6. Learned APP, on the other hand, submits that though the informant is not an eye witness, the allegation against the petitioner is/are there.

7. Taking into account the submissions made by the learned counsel for the petitioner and finds incorporated in paragraph 12 of the petition that it was Naresh Ray and Prakash Ray who slit the throatd of the deceased as incorporated in paragraphs no. 10, 11 and 21 of the case diary and similar situate co-accuseds have since been granted bail, as stated above, are in custody since 21.10.2022 (as stated in paragraph 15 of the petition), this Court is inclined to extend them the privilege of bail with conditions.

8. If, however, it is found that the statement made in paragraph 12 relating to Naresh Ray and Prakash Ray is/are incorrect, the bail order shall become infructuous.



9. Let the petitioners, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge-III, Banka, in connection with Katoria P.S. Case No. 153 of 2021 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioners shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial Court itself;

(iii) the petitioners shall appear before the concerned police station every fortnight for six months to mark their attendance;

(iv) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioners shall desist from committing any criminal offence again, failing which the State shall be at liberty



to take steps for cancellation of their bail bonds.

10. With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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