

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42393 of 2023

Arising Out of PS. Case No.-77 Year-2022 Thana- MAHINDWARA District- Sitamarhi

1. RAM VIVEK RAI Son of Late Birju Rai Resident of village - Sugaridih, P.S. - Mahindwara, Distt. - Sitamarhi
2. Jawahar Rai Son of late Mahendra Rai Resident of village - Sugaridih, P.S. - Mahindwara, Distt. - Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Basant Kumar Tripathy, Adv.

For the Opposite Party/s : Mr.Mohammad Sufyan, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 03-10-2023 Heard Mr. Basant Kumar Tripathy, learned counsel

for the petitioners and Mr. Mohammad Sufyan, learned A.P.P.

for the State.

The petitioners apprehend their arrest in connection with Mahindwara P.S. Case No. 77 of 2022 under Sections 174, 148, 149, 341, 342, 323, 324, 307 and 302 of the Indian Penal Code.

The petitioners along with others are alleged to have assaulted the son and nephew of the informant by means of knife, fists, slaps, lathi, danda and iron rod due to which son of the informant sustained knife injury in his upper side of chest and died during course of treatment.



Learned counsel appearing for the petitioners submits that the petitioners, who are of clean antecedent, are innocent and have falsely been implicated in this case. He further submits that on bare perusal of the F.I.R., it appears that there is no accusation of assault or any over act attributed to the petitioners rather general and omnibus allegation is leveled against them. He further submits that according to the F.I.R., specific allegation is attributed to the co-accused persons namely, Raghwendra Kumar and Navin Kumar who caught hold the hands of the son of the informant and ordered one of the co-accused, Rajnish Kumar to stab him with knife causing him deadly injury, accordingly, he died during course of treatment. He further submits that although the petitioners are alleged to have assaulted the family members of the informant but no one has sustained injury. He further submits that no case under Section 302 of the Indian Penal Code is made out against the petitioners.

Learned A.P.P. for the State on the basis of material available on record vehemently opposed the prayer for bail of the petitioners and submits that there is allegation against the petitioners that they have assaulted the family members of the informant.



Considering the facts and circumstances of the case, let the, above named, petitioners, in the event of their arrest or surrender before the court below within a period of four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-1st Class, Sitamarhi in connection with Mahindwara P.S. Case No. 77 of 2022, subject to the conditions laid down under Section 438(2) of the Cr.P.C. as also with the following conditions:-

(1) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be canceled by the Court below.

(2) If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

And, further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed



their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. 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.

(Rajesh Kumar Verma, J)

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