

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40744 of 2023

Arising Out of PS. Case No.-48 Year-2023 Thana- RAMNAGAR District- West Champaran

1. ANUP YADAV @ SUNNY S/O SHRI SURENDRA YADAV R/O Village-Shiv Mandir, Narainapur, Ward No.3, PS. Ramnagar, Dist. West Champaran
2. ANUJ YADAV @ CHHOTU S/O SHRI SURENDRA YADAV R/O Village-Shiv Mandir, Narainapur, Ward No.3, PS. Ramnagar, Dist. West Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Baxi S.R.P. Sinha, Sr. Advocate Mr. Arvind Kumar, Advocate
For the Informant	:	Mr. Vijay Kr. Singh No. 1, Advocate
For the State	:	Mr. Md. Aslam Ansari, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 28-08-2023 Heard Mr. Baxi S.R.P. Sinha, learned Senior Counsel

for the petitioners, the State as also the learned Counsel for the

informant.

The petitioners are accuseds in connection with
Ramnagar P.S. Case No. 48 of 2023 registered for the offences
under sections 341, 342, 323, 379, 302, 504, 506 and 34 of the
Indian Penal Code lodged on 05.02.2023 by the informant,
Ishahak Mian.

As per the prosecution story, the allegation is that
these two petitioners alongwith others assaulted the informant's
son, they rushed to the spot and took him back. The accused
persons threatened not to complain before the police.



Subsequently, at home though he was administered some drugs, condition deteriorated whereafter he was rushed to the hospital, died. This followed by the FIR.

Learned Senior Counsel for the petitioners submit that omnibus allegation is against these two petitioners who are brothers as also the other co-accused of having assaulted the informant's son, there is nothing specific against these two petitioners. It is his further submission that the Postmortem Report though records cause of death by hard and blunt injury, a perusal of the same would show that only bruises have been found on the body of the deceased. There is no fracture or any specific injury to show that he was brutally assaulted. The last submission is that the CDR location of the two petitioners at the relevant time have been shown to be their residence and not the water factory where the alleged assault took place, this fact has come in paragraph 28 of the case diary.

Learned Counsel for the informant, on the other hand, submits that allegation against these two petitioners is/are of assaulting the informant's son on minor issue that while he was going to fix a puncture, his cycle was snatched and when he objected to it, was taken to the water factory and assaulted. He as such, opposes the prayer.



Learned APP for the State has taken this Court to paragraph 28 to show that the CDR location of the mobile shows that the same to be residence of the two petitioners.

Taking into account the submissions put forward by the learned Senior Counsel for the petitioners, there is omnibus allegation against the two petitioners, the CDR location shows their presence at a different place, are in custody since 20.02.2023 (as stated in paragraph 4 of the bail application), this Court is inclined to extend them privilege of bail.

Let the petitioners be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousands only) with two sureties of like amount each to the satisfaction of the learned Additional Sessions Judge 1st , Bagaha, West Champaran in connection with Ramnagar P.S. Case No. 48 of 2023, subject to the following conditions:-

(i) one of the bailor should be the family member of the petitioners who shall provide official document to show their *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 month for next one year to mark 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 their 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.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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