

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56216 of 2022

Arising Out of PS. Case No.-257 Year-2022 Thana- SARAIYA District- Muzaffarpur

1. Kapi Bhagat @ Kapindra Bhagat S/O Ganaur Bhagat R/O Village Gosai Chhapra, P.S.- Saraiya, District- Muzaffarpur
2. Chandan Bhagat @ Chandan Kumar S/O Ravindra Bhagat R/O Village Gosai Chhapra, P.S.- Saraiya, District- Muzaffarpur
3. Raja Bhagat @ Raj Mangal Bhagat S/O Devi Bhagat R/O Village Gosai Chhapra, P.S.- Saraiya, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance:

For the Petitioner/s : Mr. Arun Kumar, Advocate

For the Opposite Party/s : Mr. Rajendra Prasad Nat, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 14-02-2023 Let the defects, if any, pointed out by the office be removed within three weeks from the date of this order, failing which the matter be listed again under the appropriate heading for necessary action.

Heard learned counsel for the petitioners and the learned APP for the State.

Petitioners seek regular bail in connection with Saraiya P.S. Case No. 257 of 2022 registered for the offences punishable under Sections 447, 341, 323, 307, 325, 302 and 504/34 of the Indian Penal Code.

As per the prosecution, the informant and his family members were assaulted by the petitioners along with the co-

accused persons by means of *lathi*, *knife* etc.

The main submissions advanced by the learned counsel for the petitioners are that all the petitioners are neighbours of the informant and in between them a title suit was running when the alleged occurrence took place and on account of the said land dispute the instant matter was lodged, in fact, the prosecution party of the present matter assaulted the petitioners' family members for which Saraiya P.S. Case No. 256 of 2022 was lodged prior to the institution of the present matter and the FIR of the present matter was lodged after two days from the alleged day of the occurrence and the allegation of causing *knife* injury by petitioner Kapi Bhagat is completely false as the same does not get corroboration from the *post-mortem* report of the deceased and on the body of the deceased only one head injury was found which was opined to be caused by hard and blunt object and from the petitioners' side three persons sustained injuries and all the petitioners have been languishing in jail since 28.04.2022 and petitioner no. 1 and 3 are more than sixty years old persons and the petitioner no. 2, Chandan Bhagat was alleged to have assaulted the deceased by means of *lathi*.

Learned APP has opposed the bail prayer.

Having considered the above submissions and mainly the

fact that on the body of the deceased only two head injuries were found and the allegation of causing injury by means of a *knife* does not get corroboration from the *post-mortem* report of the deceased and the petitioner no. 1 and 3 are stated to be old persons and against the petitioner no. 2 there is no allegation of having assaulted the deceased repeatedly by means of a *lathi* and in between both the parties there is a case and counter case and the petitioners' case was lodged prior to institution of the FIR of the present matter at stated above, in the opinion of this Court all the petitioners deserve the privilege of bail. Accordingly, let the petitioners named above be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-I, Muzaffarpur in Connection with Saraiya P.S. Case No. 257 of 2022.

(Shailendra Singh, J)

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