

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55999 of 2022

Arising Out of PS. Case No.-434 Year-2022 Thana- GOPALGANJ TOWN District-
Gopalganj

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1. IRFAN @ IRFAN ALAM, S/O LATE RASOOL JAAN, Resident Village- Indrawa Abadullah, P.S.- Gopalganj, District- Gopalganj.
 2. RIZWAN, S/O LATE IZHAR ALAM, Resident Village- Indrawa Abadullah, P.S.- Gopalganj, District- Gopalganj.
 3. IMRAN, S/O LATE IZHAR ALAM, Resident Village- Indrawa Abadullah, P.S.- Gopalganj, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ansul, with Mr. Mohammad Sufyan, Advocates
For the Opposite Party/s	:	Mr. Shyameshwar Dayal, APP
For the Informant	:	Mr. Setu Pratik, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 16-02-2023 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Ansul, learned counsel for the petitioners, Mr. Setu Pratik, learned counsel for the Informant and learned APP for the State.

The petitioners seek regular bail, who are in custody in connection with Gopalganj (Town) P.S. Case No. 434 of 2022 registered for the offences punishable under Sections 147, 148, 149, 302/34, 120(B) of the Indian Penal Code.

The prosecution case is based on a written report filed



by the informant alleging therein that on 31.05.2022, at 5.30 AM, when the informant woke up, he found that his neighbours Irfan, Rizwan and Imran, the petitioners herein, were beating his son on the accusation of committing theft in their house. It is further alleged that when the informant asked for mercy, they did not accord his prayer and brought his son outside and tied in an electric pole, whereupon all the other F.I.R. named accused persons came there and brutally assaulted his son, resulting into his death.

Learned counsel appearing on behalf of the petitioners submits that from the F.I.R. it is evident that the occurrence took place in two parts; firstly allegedly while committing theft, the deceased was apprehended in the house of the petitioners and thereafter he was assaulted and secondly; he was brought outside and tied in an electric pole and thereafter other accused persons assaulted him, due to which he sustained severe injuries resulting into his death. It is not the case of the prosecution that the deceased was brought dead from their house, rather from the F.I.R. it is evident that he was brought alive from the house and thereafter the deceased was tied in an electric pole where several persons brutally assaulted. He next submits that in fact the deceased was in the habit of stealing goods from different



houses and, therefore, knowing this fact the local people assaulted him mercilessly, which resulted into his death. However, the act of the petitioners' to the extent that they apprehended the deceased and brought outside and tied him in a pole that has been done in exercise of right to private defence of their life and property. He further submits that so far the other accused persons are concerned, some of the accused persons have been allowed anticipatory bail and few of them have been allowed regular bail by learned different coordinate Benches of this Court. He lastly submits that be that as it may, the petitioners are having fair antecedent and are in custody since 01.06.2022 and they are ready to abide by all the terms and conditions imposed by this Court.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that the deceased was initially beaten mercilessly in the house of the petitioners and later on it is the petitioners, who brought the deceased outside from their house and tied in a pole and thereafter instigated the other persons, which resulting into brutal assault made by other persons on account of which the death occurred and, therefore, these petitioners are mainly instrumental in causing death of the son of the informant. He



further submits that in no circumstances, the mob lynching is to be encouraged and the persons, like the petitioners, would be allowed on bail.

Learned APP for the State also opposes the bail application and submits that during the course of investigation, witnesses have supported the prosecution case that these three petitioners brutally assaulted the deceased.

Regard being had to the submissions made on behalf of the parties and considering the nature of allegation and the materials available on record suggesting omnibus allegation against all the accused persons and the fact the deceased was brought alive from the house of the petitioners, coupled with the fair antecedent and the period of custody of the petitioners, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gopalganj in connection with Gopalganj (Town) P.S. Case No. 434 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioners with further conditions which are as follows:-

(i) The petitioners will cooperate in conclusion of the trial.



(ii) They will remain present on each and every date of trial till disposal of the case.

(iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(Harish Kumar, J)

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