

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57934 of 2022

Arising Out of PS. Case No.-117 Year-2022 Thana- DARBHANGA SADAR District-
Darbhanga

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1. CHANDAN KUMAR SON OF UMESH MISHRA R/O VILLAGE-RANIPUR, P.S.- SADAR, DISTRICT- DARBHANGA
 2. UMESH MISHRA SON OF LATE RAJENDRA MISHRA R/O VILLAGE-RANIPUR, P.S.- SADAR, DISTRICT- DARBHANGA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shivam

For the Opposite Party/s : Mr.Chandra Bhushan Prasad

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 06-01-2023 Heard the learned counsel for the petitioners and the learned APP for the State as also the learned counsel appearing for the informant.

The petitioners seek regular bail in connection with Sadar P.S. Case No. 117 of 2022, registered for the offence punishable under Sections 147, 148, 149, 341, 323, 324, 307, 504, 506 of the Indian Penal Code. Later on, Section 302 of the Indian Penal Code was added.

The allegation is regarding the accused persons including the petitioners herein having arrived at the house of the informant on



10.3.2022, armed with hockey stick etc. whereafter they had assaulted the informant and his son, namely, Rajiv Mishra, as also his grandson. Specific allegation has been levelled against the petitioner no. 2 i.e. Umesh Mishra of having assaulted the son of the informant with iron khanti on his head, resulting in him sustaining serious injuries and subsequently, he had died during the course of treatment.

The learned counsel for the petitioners has submitted that the petitioners are innocent, they have been falsely implicated in the present case, they are having a clean antecedent and they are languishing in custody since 03.06.2022. The learned counsel for the petitioners has further submitted that as far as the petitioner no. 1 is concerned, a general and omnibus allegation has been levelled, hence, at least, he is entitled to the privilege of bail. It is also submitted that the present case arises out of case and counter case, the case filed by the son of the petitioner no. 2 i.e. Darbhanga Sadar P.S. Case No. 116 of



2022, against the members of the prosecution party, being first in time. It is also submitted that the occurrence in question had taken place on account of dispute having arisen, pertaining to right of way.

Per contra, the learned APP for the State and the learned counsel appearing for the informant have vehemently opposed the prayer for bail and have submitted that the impugned order would show that the Doctor, conducting the postmortem, has found number of ante-mortem injuries on the person of the deceased, hence, all the accused persons are having complicity in the matter, thus, they are not entitled to bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record, this Court finds that as far as the petitioner no. 1 is concerned, a general and omnibus allegation has been levelled regarding him having assaulted the deceased, however,



specific allegation has been levelled against the petitioner no. 2 regarding him having assaulted the deceased by iron khanti on his head i.e. on the vital part of the body, which may have resulted in the death of the deceased, hence, though I deem it fit and proper to admit the petitioner no. 1 to the privilege of bail, however, as far as the petitioner no. 2 is concerned, I am not inclined to grant bail, hence the present petition qua the petitioner no. 2 is dismissed.

Accordingly, the above named petitioner no. 1 is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Darbhanga at Laheriasarai in connection with Sadar P.S. Case No. 117 of 2022.

(Mohit Kumar Shah, J)

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