

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59769 of 2022

Arising Out of PS. Case No.-196 Year-2020 Thana- RAGHUNATHPUR District- Siwan

1. JITENDRA KUMAR @ JITENDRA SAH SON OF AWATER SAH @ ATWARU SAH R/O VILLAGE- SANTHI, P.S.- RAGHUNATHPUR, DISTRICT- SIWAN
2. AWATAR SAH @ ATWARU SAH SON OF LATE GULAB CHAND SAH R/O VILLAGE- SANTHI, P.S.- RAGHUNATHPUR, DISTRICT- SIWAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bhavesh Kumar
For the Opposite Party/s : Mr.Shailendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

3 13-03-2023 Heard the learned counsel for the petitioners,

learned APP for State and the learned counsel for the informant.

This is an application for regular bail on behalf of the petitioners for the offences alleged under Sections 147, 148, 149, 341, 323, 324, 307 and 504 of the Indian Penal Code and subsequently Section 302 of the IPC was added, registered in connection with Raghunathpur P.S.Case No. 196 of 2020.

As per allegation, when the informant was engaged in construction of a wall, eight named accused persons, including the petitioner, came there. They prohibited her from making construction and attacked the family members of the informant. Co-accused Dharmendra Sah inflicted assault with a sharp-



edged weapon on the head of the deceased, who died in course of treatment.

The learned counsel for the petitioners has submitted that they were granted anticipatory bail by a co-ordinate Bench of this Court, but that order was set aside by Hon'ble the Supreme Court because the process under Section 82 of the Cr.P.C. was issued against the petitioners. At the same time, the Hon'ble Supreme Court observed that its order shall not come in the way of hearing of regular bail petition of the petitioners. Learned counsel has submitted further that the petitioner is not the assailant. The allegation of assault is solely on co-accused Dharmendra Sah and not on the petitioners. The petitioners are in custody since 18.08.2022.

On the other hand, the learned counsel for the informant and the learned APP for the State have opposed the prayer for bail and submitted that, though there is no specific allegation on the petitioners to assault the deceased, but they were members of the mob.

The FIR itself shows that the allegation of inflicting assault on the head of the deceased is only on co-accused Dharmendra Sah. The allegation against the petitioners is general and omnibus and they are in custody since 18.08.2022.



Considering the above facts and circumstances, let the petitioners, above-named, 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 Additional Chief Judicial Magistrate-VIII, Siwan in connection with Raghunathpur P.S.Case No. 196 of 2020, subject to the following conditions:-

1. The petitioners shall cooperate in the disposal of trial and make available as and when required by the court.

2. If the petitioner is found involved in future in the similar type of offence, the prosecution will have liberty to file an application before the court below for cancellation of the bail of the petitioners and the learned court below will take decision in accordance with law.

(Nawneet Kumar Pandey, J)

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