

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53343 of 2024

Arising Out of PS. Case No.-61 Year-2024 Thana- BASANHI District- Saharsa

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1. Rekha Devi Wife Of Sunil Mandal Resident Of Village - Panchlakh Tola Hingwa, P.S. - Basnahi, District - Saharsa
 2. Anil Mandal Son Of Late Lakhan Mandal Resident Of Village - Panchlakh Tola Hingwa, P.S. - Basnahi, District - Saharsa
 3. Murli Mandal Son Of Late Lakhan Mandal Resident Of Village - Panchlakh Tola Hingwa, P.S. - Basnahi, District - Saharsa

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shiva Shankar Sharma, Adv.
For the State	:	Ms. Rina Sinha, APP
For the Informant	:	Mr. Shardanand Mishra, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 07-08-2024 Heard Mr. Shiva Shankar Sharma, learned Advocate for the petitioners and learned Additional Public Prosecutor for the State. The informant is represented by Mr. Shardanand Mishra, learned Advocate.

2. The petitioners seek grant of regular bail in connection with Basnahi P.S. Case No. 61 of 2024, registered for the offences punishable under Sections 147, 149, 341, 323, 325, 307, 447, 504 of the Indian Penal Code.

3. Based upon the written report, the prosecution alleges that while the younger brother of the informant namely, Yogendra Mandal, Ramsuresh Mandal and his son Shambhu



Mandal and other villagers were cleaning the temple, in the meantime, all the FIR named accused persons, including the petitioners, armed with *lathi*, *danda* and iron rod came there and started abusing. The accused persons further dragged them out of the temple premises and assaulted the brothers and son of the informant by means of *lathi danda* due to which they fell down and became unconscious. The injured Yogendra Mandal was brought to the Sadar Hospital, however, in the way he died.

4. Learned Advocate for the petitioners contended that though one of the injured namely Yogendra Mandal died in the way while going to hospital but the impugned order suggests that till the date of rejection of the prayer of the petitioners by the court below, the Investigating Officer had not prayed to incorporate Section 302 of the Indian Penal Code. It is further contended that the narrations made in the FIR clearly suggest that there is a long standing land dispute between the parties. On the alleged date of occurrence, in fact, on account of land dispute, both the members of the parties have entered into a free fight resulting into injuries to persons of both the sides, for which a counter case has also been instituted being Basnahi P.S. Case No. 62 of 2024 registered for the offences under Section 307 and other allied sections of the India Penal Code against the



informant and his son as well as other family members. Drawing the attention of this Court to the *post mortem* report which is marked as Annexure-P/3, learned Advocate for the petitioners contended that the deceased Yogendra Mandal has sustained two injuries and one of the injury sustained over occipital region leading to his death. So far the injured brother of the informant is concerned he sustained one grievous injury but the same is on the forearm which is non-vital part. It is lastly contended that save and except the general and omnibus nature of allegation against all the FIR named accused persons, there is no specific allegation attributed against any of the petitioners. It is lastly contended that now the petitioners have been incarcerated since 31.03.2024. The investigation of the crime is complete and the charge sheet has been submitted, much less there is no criminal antecedent in the credit of the petitioners.

5. On the other hand, learned APP for the State as well as the informant oppose the bail application and submit that the because of assault being made by all the accused persons including the petitioners, the brother of the informant succumbed to the injuries and died in the way to the hospital. The *post mortem report* as well as the injury report clearly suggest that both of them were brutally assaulted due to which



one of the person has died.

6. Regard being had to the submissions made on behalf of the parties and considering the omnibus nature of allegation against all the persons, coupled with the case and counter case and the *post mortem* report which suggests only two injuries, moreover the petitioners bear fair antecedent and now the charge sheet has been submitted, let the petitioners, abovenamed, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Saharsa in connection with Basnahi P.S. Case No. 61 of 2024 subject to the condition that one of the bailors shall be the own/close family members 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.

(v) The court below shall verify the criminal antecedent of the petitioners and in case, at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioners. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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