

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68104 of 2024

Arising Out of PS. Case No.-188 Year-2020 Thana- KALYANPUR District- Samastipur

1. Shiv Shankar Ray S/o- Late Pashupati Ray Resident of village- Gumala PS- Kalyanpur District- Samastipur
2. Radhey Shyam Ray Son of Shiv Shankar Ray Resident of village- Gumala PS- Kalyanpur District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhay Shankar Singh, Advocate

For the Opposite Party/s : Mrs. Indu Kumari Srivastava, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 01-10-2024 Heard Learned Counsel for the petitioners and
Learned Additional Public Prosecutor for the State.

2. The petitioners seek regular bail in connection with Kalyanpur P.S. Case No. 188 of 2020, lodged on 23.08.2020, under Sections 323/324/341/354/447/504/34 of the Indian Penal Code. Later on offence under Section 302 of the Indian Penal Code was added.

3. As per the prosecution, allegation has been made against three accused persons including the present petitioners that they had assaulted the informant by iron rod and subsequently specific allegation has been made against petitioner No.2 that he has assaulted the wife of the informant



and attacked on his head by iron rod due to which the wife of the informant sustained injury on her head.

4. Learned Counsel for the petitioners submits that from the content of the FIR it becomes crystal clear that the present FIR has been filed by the full-brother of the petitioners. He submits that on petty family matters the dispute has arisen. Counsel further submits that from the proforma of the FIR, it becomes crystal clear that FIR had been lodged in the month of August, 2020 but offence under Section 302 I.P.C. was added in this case on July 2022. He further submits that he has annexed the post mortem report. From the post mortem report the doctor has opined that death has been caused due to myocardial infarction. He submits that the death has been caused due to heart attack but at the instance of the police, offence under Section 302 has been added after two years. Counsel further submits that about injury there is a comment made in the post mortem report and doctor has inserted that no external injury has been seen. Counsel further submits that FIR has been lodged on 23.08.2020 whereas the post mortem examination has taken place on 27.08.2020 that is just after 14 days of the occurrence. Learned Counsel submits that as the alleged occurrence took place as per FIR on 14.08.2020, FIR has been



lodged on 23.08.2020 and post mortem was conducted on 27.08.2020. Counsel further submits that antecedent of the petitioners are clean. They are in custody since 24.07.2024.

5. Learned Counsel for the State opposes the prayer for bail but fairly submits that offence under Section 302 of the Indian Penal Code was added after the lapse of about two years. He also submits that from the post mortem report it transpires that no injury was found on the person of the deceased.

6. In the present facts and circumstances of this case and the submissions made above, let the petitioners, above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) each with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Samastipur, in connection with Kalyanpur P.S. Case No.188/2020, subject to the following conditions:

(i) One of the bailor should be the family member of the petitioners who shall provide official document to show his *bona fide*;

(ii) The petitioners shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bonds by the Trial Court itself;



(iii) The petitioners shall appear before the concerned police station every month for one year to mark attendance;

(iv) The petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of the bail bonds; and

(v) The petitioners shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Dr. Anshuman, J)

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