

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79309 of 2023

Arising Out of PS. Case No.-160 Year-2023 Thana- SALIMPUR District- Patna

1. AMIT PAL @ AMIR PAL Son of Durga Pal R/o vill - Hidayatpur Tola, P.S. - Salimpur, Distt. - Patna
2. Hira Pal Son of Durga Pal R/o vill - Hidayatpur Tola, P.S. - Salimpur, Distt. - Patna
3. Munna Pal @ Munna Kumar Son of Ramji Pal R/o vill - Garviya Tola, P.S. - Salimpur, Distt - Patna
4. Vishal Kumar Son of Niru Pal R/o vill - Hidayatpur Road, P.S. - Salimpur, Distt - Patna
5. Saurav Kumar Son of Khiru Pal R/o vill - Karorichak, P.S. - Phulwari, Distt - Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR PATNA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vaishnavi Singh, Advocate
For the Opposite Party/s : Mr.Anil Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 21-08-2024 Heard learned counsel for the petitioners, learned

APP for the State as also learned counsel appearing on behalf of

the informant.

2. The petitioners apprehend their arrest in

connection with Salimpur P.S. Case No. 160 of 2023 for the

offence registered under Sections 147, 148, 149, 323, 302 and

504 of the Indian Penal Code.

3. Learned counsel for the petitioners submit that the

petitioner no.1 has antecedent of one case and rest of the



petitioners are person with clean antecedent and the informant alleges that on 14.07.2023, his father was going to have tea at village crossing and when his father was coming back home after having tea and reached near the house of Durga Pal when all the accused persons came out from the house having '*lathi*' and '*danda*' started abusing his father. On protest, Sandeep Kumar and Kunal Kumar caught his hand and Amit Kumar, Satyendra, Hira and Vishal having an '*iron khanti*' '*iron rod*' and '*bricks*' in their hand assaulted his father on account of which he became unconscious and thereafter, on alarm, informant and villagers came when the accused fled away and the informant admitted his father in Sriram Hospital, Kankarbagh on 14.07.2023 at 23:30 hours and his father during the course of treatment died.

4. Learned counsel for the petitioners submit that on perusal of the allegation, as alleged in the FIR, it would manifest that the informant alleges that Sandip and Kunal had caught the hand of the father while Satyendra, Hira and Vishal having '*iron khanti*', '*iron rod*' and '*bricks*' assaulted him, causing injury on account of which he fell and became unconscious but then submitted that had the father of the informant been assaulted in the manner, as alleged then definitely some external injury



would have been found on the body of the deceased. It is next submitted that in the nature of allegation, as alleged, it appears that the informant is not an eye witness to the occurrence nor the informant has disclosed that what was his source of information based on which he alleges that it were the accused persons including the petitioners, who assaulted his father leading to his death. It is further submitted that the informant was not an eye witness to the occurrence also for the reasons that had the informant been present at the place of occurrence that he would have intervened when the petitioners started abusing his father. It is next submitted that though it is alleged that his father was admitted in Sriram Hospital by the locals including the informant but then name of the local person who helped in admitting his father in hospital is not disclosed in the FIR which also cast an aspersion on the case of the prosecution.

5. It is also submitted that there is dispute in between the side of the petitioners and the informant relating to passage for which Salimpur P.S. Case no. 159/2023 was instituted from the side of the petitioner against the informant and his side. It is next submitted placing reliance on Annexure-4 to the anticipatory bail application which records the condition of the deceased when he was admitted at Sriram Hospital wherein it is



recorded that on general examination, patient having no any external injury present over the body.

6. Learned counsel for the petitioners thus submits that it appears that father of the informant fell loosing consciousness or the occurrence was committed in some other manner and taking advantage of the situation the informant implicated the petitioners on account of pre-existing enmity.

7. Learned APP appearing on behalf of the State and learned counsel appearing on behalf of the informant opposes the anticipatory bail application but they are not in a position to rebut the submissions put forward by the learned counsel appearing on behalf of the petitioners that from the report of Sriram Hospital itself manifest that when deceased was admitted in the hospital, no external injury was found which belies the allegation of assault.

8. Learned counsel appearing on behalf of the informant further submits that in the event, if the petitioners are given the privilege of anticipatory bail, in that event, they may temper with the evidence or may abscond, on which, learned counsel appearing on behalf of the petitioners submit that the petitioners will not abscond rather will co-operate in the investigation to prove their innocence.



9. Considering the submissions made by the learned counsel appearing on behalf of the petitioners, let the petitioners, in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Barh, Patna in connection with Salimpur P.S. Case No. 160 of 2023, subject to condition as laid down under Section 438(2) of the Cr.P.C.

10. However, in the event if the Investigating Officer of the case files an application before the learned Trial Court bringing to its notice that the petitioners despite giving assurance to this Court are not co-operating in the investigation, in that event, the learned Trial Court shall be at liberty to cancel the bail bond of the petitioner.

(Satyavrat Verma, J)

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