

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80466 of 2025

Arising Out of PS. Case No.-202 Year-2024 Thana- JAHANABAD District- Jehanabad

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1. Raj Deep S/o Binod Kumar Raut R/o Village - Ambedkar Nagar, P.S - Jehanabad, District - Jehanabad
 2. Sagar Deep S/o Binod Kumar Raut R/o Village - Ambedkar Nagar, P.S - Jehanabad, District - Jehanabad
 3. Binod Kumar Raut S/o Late Ramnath Ram R/o Village - Ambedkar Nagar, P.S - Jehanabad, District - Jehanabad

... .. Petitioner/s

Versus

1. The State of Bihar
2. Amit Kumar S/o Mantu Das R/o Village - Ambedkar Nagar, P.S - Jehanabad, District - Jehanabad

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ratnakar Jha, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY

ORAL JUDGMENT

Date : 27-01-2026

Heard learned counsel for the petitioner and the learned Counsel appearing on behalf of O.P. No. 2. The State is represented by the learned APP.

2. The present application has been preferred by the petitioners challenging the order dated 15.09.2025 passed in Sessions Trial No. 445 of 2024, arising out of Jehanabad Town P.S. Case No. 202 of 2024, by the learned District and Additional Sessions Judge-II, Jehanabad.



3. The facts giving rise to the present application to the effect that O.P. No. 2 gave a fardbeyan before the Town Police Station, Jehanabad alleging therein that while his father was sleeping in the house, the petitioners entered his house variously armed with lathi, danda, etc. and started assaulting his father who received injuries and fell down. It is further alleged that the informant with the help of others brought his father to the Sadar Hospital, Jehanabad for treatment and during the course of treatment he died on 11.03.2024.

4. Learned counsel for the petitioners submits that upon submission of the charge-sheet the trial had proceeded after framing of charge and between 22.10.2024 to 06.08.2025, seven prosecution witnesses were examined. It has been submitted that out of the aforesaid seven witnesses, P.W. 1 is the Doctor who conducted the post-mortem of the dead body and P.W. 7 is the Station House Officer, Jehanabad Town Police Station while P.W. 3 is the informant of the present case and P.Ws. 2, 4, 5 and 6 were the interested witnesses.

5. Learned counsel for the petitioners submits that during the pendency of the Sessions Trial No. 445 of 2024, while the defence witnesses were being examined, an application under Section 233(3) of the Cr.P.C. was filed on behalf of the petitioners



(defence) on 23.08.2025 in which a prayer was made to issue notice to the Civil Surgeon, Jehanabad and SHO, Jehanabad Town Police Station to produce the documents relating to the treatment of the deceased and audio-video clips of Jehanabad Town Police Station House dated 11.03.2024.

6. It has been submitted that the learned APP filed a rejoinder praying for rejection of the said petition and the learned District and Additional Sessions Judge-II, Jehanabad after hearing the parties, rejected the application of the petitioners *vide* the impugned order dated 23.08.2025 recording that the application was filed by the defence only to delay the trial.

7. Learned counsel for the petitioners submits that by the impugned order, the learned trial court has erred in rejecting the application of the petitioners as from the deposition of P.W. 5, it would be clear that the deceased was in conscious mind during his treatment, but his statement was not recorded and such fact can be proved only from the prescriptions of the doctor and treatment chart of the deceased register of Emergency No. 8870 dated 10.03.2024. It is further submitted that the doctor of Sadar Hospital, Jehanabad and SHO, Jehanabad Town Police Station are also necessary to be issued directions to produce the documents in order to do complete justice.



8. Learned counsel for the petitioners submits that it is the specific case of the defence that the petitioners had not assaulted upon the deceased and the injury sustained by the deceased was on account of some other fact and the petitioners have falsely been implicated in this case and therefore, the aforesaid documents as prayed in the application was necessary for fair and just trial.

9. It has been argued on behalf of the petitioners that the rejection order shall cause irreparable loss to the petitioners as the calling of the prescription as well as the audio-visual clips is necessary for the disposal of the present case.

10. Learned APP appearing on behalf of the State has submitted that the calling of such document at a belated stage has rightly been dealt with by the learned trial court and the application made by the petitioners was rightly rejected. It has been submitted that the petition filed by the defence had no merit and the same has been filed in vexatious manner only to prolong the trial. It has been stated by the learned APP that sufficient opportunity to cross-examine the informant, the I.O. and the doctor of the case was availed by the defence and therefore, at such a belated stage such application has no meaning and it amounts to improving upon the case of the defence.



11. Learned APP for the State has further submitted that calling for the audio-video footage of the police station concerned for that specific date is also not feasible, as the incident had occurred almost 1½ years ago and, therefore, until the same is preserved procuring such footage was not possible. It has next been submitted by the learned APP for the State that the defence had enough opportunity to make such applications earlier and it has nothing to do with the deposition of the various prosecution witnesses and, therefore, the present application is misconceived and fit to be dismissed.

12. Heard the parties and also perused the impugned order and from perusal of the same, it is evident that the learned trial court has recorded the fact that the doctor was cross-examined as P.W. 1 and was also cross-examined at length by the defence. It has further been observed by the learned trial court that from perusal of the post-mortem report, which was marked as P-1/P.W.-1 shows the internal injuries inside the body of the deceased which were found to be as follows:

Abdominal dissection:-

- (I) Massive amount of blood oozes
- (II) Spleen rupture
- (III) Abdominal tears



13. The learned trial court has referred to the opinion of the doctor, who had conducted the post-mortem has specifically stated that “*Hypovolemic Shock leading to cardio respiratory arrest due to abdominal trauma and splenic*”.

14. From the perusal of the aforesaid, it is evident that the prayer made by the petitioners before the learned trial court relates to the prescription of the deceased, who is said to have died on 11.03.2024, while the incident had taken place on 10.03.2024 in the evening. It is a settled law that applications calling for any document or any material proof has to be called at the first instance especially for the fact that the same relates to a medical prescription of the deceased which was given to the informant, while he was alive and admitted at Sadar, Hospital, Jehanabad.

15. Learned counsel for the petitioners it seems, relies upon the deposition of certain witnesses who had stated about the treatment paper but the same is not on record. It goes without saying that if a document which ought to have been brought at the first instance and was not brought by the prosecution during the course of investigation the same in any case is not going to help either the prosecution or the defence side. Neither the prosecution could rely on such documents nor the same could be of any harm to the defence side. As far as the collection of audio-video clips of



the police station is concerned, such evidence could have been called by the defence way earlier, however the defence waited for the entire prosecution witnesses to be examined and only at the stage of examination of the defence witnesses that the present application was filed by the petitioners before the learned trial court.

16. In view of the discussions made, hereinabove, I do not find any strong reason in the application by the petitioners showing serious prejudice being caused to the defence and, therefore, the present application is misconceived and is fit to be dismissed and is accordingly dismissed.

(Sourendra Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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