

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No. 4321 of 2021**

Arising Out of PS. Case No.-141 Year-2020 Thana- BAKHTIARPUR District- Saharsa

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1. Indal Yadav, aged about 45 years, Male, Son of Late Ramdeo Yadav.
2. Ravi Ranjan @ Ravi Ranjan Yadav, aged about 34 years, Male, Son of Sri Krit Narayan Yadav.
3. Ashish Yadav @ Ashish Kumar, aged about 23 years, Male, Son of Sri Krit Narayan Yadav.
4. Vinit Yadav @ Vinit Kumar, aged about 21 years, Male, Son of Sri Indal Yadav.  
All resident of Village - Sukhasani, PS- Bakhtiyarpur, District- Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s	:	Mr. Amit Kumar Anand, Advocate
For the State	:	Ms. Rita Verma, APP
For the Informant	:	Ms. Rashmi Jha, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH  
ORAL JUDGMENT**

**Date : 16-08-2021**

The matter has been heard *via* video conferencing.

2. Heard Mr. Amit Kumar Anand, learned counsel for the petitioners; Ms. Rita Verma, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Ms. Rashmi Jha, learned counsel for the informant.

3. On 06.07.2021, the prayer for pre-arrest bail on behalf of petitioner no. 3, namely, Ashish Yadav @ Ashish Kumar had been withdrawn as he had been arrested and, thus, the petition now stands restricted to petitioners no. 1, 2 and 4 namely, Indal



Yadav, Ravi Ranjan @ Ravi Ranjan Yadav and Vinit Yadav @ Vinit Kumar respectively.

4. The petitioners no. 1, 2 and 4 apprehend arrest in connection with Bakhtiyarpur (O.P. Kanaria) PS Case No. 141 of 2020 dated 19.05.2020, instituted under Sections 147, 148, 149, 341, 323, 447, 302, 504 and 506 of the Indian Penal Code.

5. The allegation against the petitioners is that co-accused Krit Narayan Yadav had assaulted the father of the informant with iron rod on his head and thereafter, others had also assaulted him due to which he died and further, there is general and omnibus allegation of assault on others also.

6. Learned counsel for the petitioners submitted that the case is absolutely false for despite there being specific allegation in the FIR that there was assault by all the accused and specific against another co-accused of having hit on the head by iron rod, the post-mortem report does not disclose a single external injury on the body. It was submitted that the cause of death has also not been indicated in the post-mortem report and so the viscera had been preserved for forensic examination. Learned counsel submitted that the petitioners have no other criminal antecedent.



7. On 06.07.2021, in view of there being some discrepancy in the inquest report and the postmortem report with regard to external injuries, the Court had asked learned APP to obtain the up-to-date legible copy of the entire case diary of Bakhtiyarpur (O.P. Kanaria) PS Case No. 141 of 2020, as also the inquest and postmortem reports and further the injury reports of the other victims, from the Superintendent of Police, Saharsa

8. Learned APP submitted that she has received the same. It was submitted that though in the inquest report, there is reference of injury on the chest but the same has not been specified and further that in the postmortem, the doctor has not found any injury on the body though the allegation against the petitioner no. 1 is that he had assaulted by bamboo stick and the petitioners no. 2 and 4 had tied up the hand of the deceased and had assaulted him with *lathi* on the hand but no such injury has been found. It was submitted that as no opinion has been given by the doctor with regard to reason for death, the viscera was preserved for forensic examination.

9. Learned counsel for the petitioner submitted that there is no allegation of any poisoning and, thus, such preservation of viscera may not be relevant for the purposes of considering the present application as specific allegation is only of assault leading



to death, that too, against co-accused Krit Narayan Yadav, who is not petitioner in the present petition and after arrest has been enlarged on bail.

10. Learned counsel for the informant submitted that the inquest report shows that there were injuries on the chest. However, she was not able to controvert the fact that only a statement has been made that there were injuries without there being any specific injury referred and that in the postmortem, no such injury anywhere on the body has been found.

11. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that as per the allegation, there being specific allegation of assault by bamboo stick on the body against petitioner no. 1 and against petitioner no. 2, that he had tied up the hands and assaulted by a thick bamboo stick and also against petitioner no. 4 that he also tied the hands and assaulted by bamboo stick on the hand, but no trace of any injury having been found in the postmortem report as also the petitioners having no other criminal antecedent and further that as compared between the inquest and postmortem report, the postmortem report being more specific since the inquest report is prepared only by what is being said by the people present at the time of occurrence and that



too a vague statement of injury on chest but without any such trace found during postmortem, the Court is inclined to allow the prayer for pre-arrest bail.

12. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, petitioner no. 1, namely, Indal Yadav; petitioner no. 2, namely, Ravi Ranjan @ Ravi Ranjan Yadav and petitioner no. 4, namely, Vinit Yadav @ Vinit Kumar, be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Saharsa in Bakhtiyarpur (OP Kanaria) PS Case No. 141 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the said petitioners, (ii) that the said petitioners and the bailors shall execute bond and give undertaking with regard to good behaviour of the said petitioners and (iii) that the said petitioners shall co-operate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of their bail bonds.

13. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the said



petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the concerned petitioners.

14. The petition stands disposed of in the  
aforementioned terms.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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