

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41316 of 2014

Arising Out of PS.Case No. -36 Year- 2014 Thana -MADHEPUR District- MADHUBANI

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1. Ramakant Yadav Son of Late Raghunandan Yadav
 2. Mukesh Yadav Son of Sitaram Yadav
 3. Suresh Yadav Son of Ram Charitra Yadav
 4. Tantu Yadav Son of Late Raghunandan Yadav All resident of Village - Birpur, P.S. Madhepur, District - Madhubani.
 5. Shaini Ram Son of Late Phulchand Ram resident of Village - Kamalpur, P.S. Bheja, District - Madhubani. Present - Resident of Village - Birpur, P.S. Madhepur, District - Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Hriday Narayan Harshit

For the Opposite Party/s : Mr. Shahin Begum(App)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

5 04-03-2015 Heard learned counsel for the petitioner and learned counsel for the informant and learned counsel for the State.

The petitioner no. 2 is in custody since 21.05.2014 and rest of the petitioners are in custody since 29.05.2014.



In the present case, the allegation against the petitioners, as per the FIR is that they were members of the crowd in which altercation took place and as a result of which two persons are said to have been attacked namely one Ramchandra Yadav and another Rambihari Yadav. The altercation is said to have taken place on account of settlement of 'Hatia' in the Village between the parties. The informant has stated clearly in the FIR that while all members had assaulted the deceased with Tengari, Farsa and fire arms but it was Kailash Yadav and Sanjay Yadav, who had assaulted the deceased with hammer blows which ultimately led to the death of Rambihari Yadav.

Learned counsel appearing for the petitioner has submitted that so far the petitioners are concerned, though they have been named in the FIR, there is no specific allegation against any of them with regard to having inflicted any injury, rather the allegation is that all the persons had indulged in the attack.

It is submitted on behalf of learned counsel for the petitioner that such a general and omnibus allegation cannot be attributed against the present petitioners as the specific allegation is against two others and not any of them. Moreover, It has been submitted that in the FIR it has not been stated that they were armed with weapons.

Learned counsel for the petitioner has also



drawn attention to Para-108 of the case diary, which relates to the injury of Ramchandra Yadav, wherein, it has been stated that said Ramchandra Yadav sustained various injuries, but it appears that no injury as described, were found on the person of the said Ramchandra Yadav. So far as, the injuries on the deceased are concerned; it has been pointed out that the said injury cannot be attributed to these petitioners and they are not said to have been armed.

Learned counsel for the petitioner has also drawn the attention of this court at para-34 of the case-diary in which Sanjay Yadav, an independent witness, has stated that there were altercations between the parties and that no specific role can be assigned to these petitioners.

On the other hand, learned counsel for the informant has vehemently opposed the application submitting that other accused persons whose case stood similar to that of these petitioners, came before the Court and their prayer for bail has been rejected by a co-ordinate Bench of this Court.

However, it appears from the said order that they have been treated to have been one of those, who had assaulted the deceased as well as Ramchandra yadav.

Learned counsel for the State on perusal of the case-diary however stated that specific allegation of assault and firing is on Kailash Yadav and Sanjay Yadav and not against these petitioners.

Considering the facts that these petitioners have had no specific role to play in the offence and except the allegation that they were members of the crowd and also considering the fact that they have been in custody since May, 2014, let the petitioners be released on bail on his furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial magistrate, Jhanjharpur District-Madhubani in connection with Madhepur P.S. Case No. 36 of 2014.

(Anjana Mishra, J)

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