

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27837 of 2015

Arising Out of PS.Case No. -223 Year- 2013 Thana -KATORIA District- BANKA

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1. Yusuf Mian S/o Late Habib Mian
2. Imtiyaz Mian S/o Late Habib Mian Both resident of village - Loharniya,
Police Station - Katoria, District - Banka

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Ajay Mukherjee, Advocate.

For the Opposite Party : Mr. Ahmad Ali (App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 22-12-2015 Heard both sides.

The petitioners apprehend their arrest in a case registered for the offences punishable under Section 302 and other Sections of the Indian Penal Code and under Section 27 of the Arms Act.

The informant alleged that there was some land dispute between his brother and the accused persons. Kailu Mian the brother of the informant was going to market. It is alleged that all the accused persons surrounded him near Tarpatiya passenger shed and caught him. Shabbir Mian and Iliyas Mian fired on temple, waist and armpit causing death of Kailu Mian on the spot.

Mr. Ajay Mukherjee, learned counsel for the petitioners submits that, of course, the informant and some of the witnesses

have stated that the petitioners also surrounded the deceased, but no specific allegation is made against the petitioners. During the course of investigation in paragraph 42, 50, 55, 56 and 57 of the case diary the investigating officer found that Yusuf Mian is disabled and he walks on walker. Imteyaz Mian is a Moulvi and he was living in another village situated 15 kms. away from the place of occurrence and on such the investigating officer submitted final form against the petitioners.

It appears that the informant and other witnesses claimed to be eye witnesses, had very categorically stated that the petitioners surrounded Kailu Mian and caught him and thereafter Shabbir Mian and Iliyas Mian made firing causing death of Kailu Mian on the spot. The investigating officer has made investigation deeply and came to know about the non-participation of the petitioners. It appears that the investigating officer was recording the statement of defence witness.

Considering the facts aforesaid, I am not inclined to enlarge the petitioners above named on anticipatory bail. Accordingly, the same is rejected.

(Prabhat Kumar Jha, J.)

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