

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4753 of 2015

Arising Out of PS.Case No. -431 Year- 2014 Thana -PURNEA SADAR District- PURNIA

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1. Md. Mumtaz Son of Md. Jainul @ Kariya
2. Md. Jainul @ Kariya Son of Late- Md. Taslim
3. Md. Munna Son of Late - Md. Taslim
4. Md. Mahboob Son of Late- Md. Taslim
All resident of village- Basantpur, Belwari, P.S.- Sadar, District- Purnea,
..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

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with
Criminal Miscellaneous No.20031 of 2015

Arising Out of PS.Case No. -431 Year- 2014 Thana -PURNEA SADAR District- PURNIA

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1. Sarwari Khatoon W/o Md. Mahboob
2. Reshma Khatoon W/o Md. Mushtaque @ Haglu
3. Md. Abid S/o Md. Mahboob
4. Md. Nawab S/o Md. Mahboob
All Resident of Village Basantpur Belari, P.S. Sadar, District Purnia.
..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

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Appearance :
(In Cr.Misc. No.4753 of 2015)
For the Petitioner/s : Mr. Amit Kumar Anand, Advocate.
For the Opposite Party/s: Mr. Aslam Ansari(APP)
(In Cr.Misc. No.20031 of 2015)
For the Petitioner/s : Mr. Sushil Kumar Jha, Advocate.
For the Opposite Party/s: Mr. R.S. Chaudhary (APP)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

4 09-07-2015 Heard learned counsel for the parties.

Having regard to the nature of allegation against the
petitioners for offence under Sections 147, 148, 149, 323, 341, 372
and 302 of the Indian Penal Code, this Court would be inclined to
grant privilege of anticipatory bail to the petitioner no.1 Sarwari

Khatoon and petitioner no. 2 Reshma Khatoon in Cr. Misc. No. 20031 of 2015, but the same privilege cannot be given to other petitioners namely, petitioner no. 3, Md. Abid and petitioner no. 4 Md. Nawab in Cr. Misc. No. 20031 of 2015 and petitioner nos. 1 to 4 namely, Md. Mumtaz, Md. Jainul @ Kariya, Md. Munna & Md. Mahtoob respectively in Cr. Misc. No. 4753 of 2015.

As a matter of fact, when the petitioners themselves claimed that accused Reshma Khatoon was having illicit relationship with the deceased, the story given by the prosecution of assault by as many as 10 persons including the petitioners will not inspire confidence because Reshma Khatoon herself has been made accused. In any event, the informant is an eye witness and she has named all these petitioners as well to have not only taken away the deceased but also assaulted him mercilessly.

The factum of only one injury and the plea that it was a self inflicted injury by the deceased himself can only be a issue of deciding the charge under Sections 302 and 149 of the Indian Penal Code, but at the moment, this Court would not find the petitioners to be entitled for grant of privilege of anticipatory bail.

That being so, the prayer for anticipatory bail of the petitioners, namely, Md. Abid and Md. Nawab in Cr. Misc. No. 20031 of 2015 and Md. Mumtaz, Md. Jainul @ Kariya, Md.

Munna & Md. Mahtoob in Cr. Misc. No. 4753 of 2015 is hereby rejected.

That being so, if the petitioners namely, Sarwari Khatoon and Reshma Khatoon in Cr. Misc. No. 20031 of 2015 surrender before the court below within a period of four weeks from today, they shall be released on bail on furnishing bail bond of Rs. 10,000/- each with two sureties of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Purnea in connection with Sadar P.S. Case No. 431 of 2014 subject to the following conditions:

(i) That both the bailors will be close family relatives of the petitioners, who will undertake an affidavit giving genealogy as to how they are related with the petitioners. The bailors will also undertake to inform the court if there is any change in the addresses of the petitioners.

(ii) That the affidavit shall clearly state that the petitioners are not accused in any other case and if they are, they shall not be released on bail.

(iii) That the bailors shall also state on affidavit that they will inform the court concerned, if the petitioners are implicated in any other case of similar nature after their release in the present case and thereafter the court below will be at liberty to

initiate the proceeding for cancellation of their bail on the ground of misuse.

(iv) That the petitioners will be well represented on each and every date in course of trial and if they fail to do so on two consecutive dates, their bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

Sujit/-

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