

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34098 of 2015

Arising Out of PS.Case No. -26 Year- 2015 Thana -RAMPUR CHAURAY District- JEHANABAD

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1. Sudheshwar Mahto Son of Lalit Mahto (Vide order no. 2 dated 12.08.2015, the anticipatory bail application of this petitioner has been dismissed as withdrawn.)
 2. Mahendra Mahto Son of Lalit Mahto
 3. Padhari Mahto Son of Lalit Mahto
 4. Munna Kumar Son of Mahendra Mahto
 5. Arun Kumar Son of Mahendra Mahto
 6. Gama Mahto Son of Late Baliram Mahto
- All are resident of village - Etva, P.S. Rampur Chauram, District - Arwal
- Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Amit Kumar
For the Opposite Party/s : Mr. S.M.Rahman (App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 26-11-2015 Heard both sides.

The petitioners no. 2, 3, 4, 5 & 6, namely, Mahendra Mahto, Padhari Mahto, Munna Kumar, Arun Kumar and Gama Mahto, apprehend their arrest in a case under Section 302 and other sections of the Indian Penal Code.

Learned counsel for the petitioners submits that if the prosecution case is taken at its face value, no offence under Section 302 I.P.C. is made out. At best, offence under Section 304 (Part 2), I.P.C. can be made out.

The informant alleged that the generator set was closed, for that, the father of the informant wanted to know the

reason. On such, the petitioners are alleged to have assaulted the deceased with fists, slaps and sticks. It is submitted that no external injury was found. Some altercations took place and the deceased fell down on the ground, got injury on head and died, but from the perusal of the case diary, it appears that the witnesses have stated that the petitioners assaulted the deceased with fists and slaps and blood started oozing out. Immediately thereafter, the deceased died.

Having considered the facts aforesaid, I am not inclined to enlarge the above named petitioners no. 2 to 6 on anticipatory bail in Rampur Chauram P.S. Case No. 26/2015. Accordingly, the same is rejected.

The petitioner, if so advised, may surrender in the court below and make prayer for regular bail. The court below shall consider the prayer for regular bail of the petitioner without being prejudiced from this order.

(Prabhat Kumar Jha, J)

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