

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37347 of 2014

Arising Out of PS.Case No. -130 Year- 2014 Thana -SAHARSA
District- SAHARSA

- =====
1. Md. Ibrahim
 2. Md. Anwar Hussain @ Md. Anwar @ Anwar Hasim
Both son of Md. Mashraf Hussain R/o Mohalla Mashraf
Chowk, saharsa Basti, Police Station Saharsa Sadar, Dist-
Saharsa

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Kanhaiya Prasad Singh, Sr.
Advocate.

For the State : Mr. Yogendra Kumar Singh (App)

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**CORAM: HONOURABLE MR. JUSTICE KISHORE
KUMAR MANDAL**
ORAL ORDER

4 23-07-2015 Heard Mr. Kanhaiya Prasad Singh learned Senior
Counsel for the petitioners , informant and the State.

The present application has been filed for grant of
anticipatory bail in connection with Saharsa P.S. case no. 130 of
2014, registered under Sections 307,504,506 and subsequently
Section 302 of the IPC was added.

The allegation is that the accused persons cited in
the First Information Report along with unknown accused
persons came over the land of the informant and tried to forcibly
take possession . The mob was armed with diverse weapons. On

protest, it is alleged that accused Prem Prakash @ Albert shot at the brother of the informant which ultimately proved fatal.

Contention is that the petitioners are not the main assailants as per FIR . Specific allegation of assault is attributed to some other accused persons. At best, they were constituting the mob which turned aggressor .From the FIR itself, it would appear that the dispute had arisen for title and possession over a piece of the land. The land dispute between the parties is, therefore, admitted. Upon conclusion of investigation the investigating Officer did not send them up along with few other co-accuseds as there was scanty material justifying their trial. The Court, however, differing therewith has taken cognizance.

Learned counsel for the informant as well as the State have submitted that one Ram Bahadur Singh who is identically placed as the petitioners had moved this Court for anticipatory bail which was considered and rejected on 15.01.2015. Subsequently he again moved for anticipatory bail in Cr. Misc. no. 9298 of 2015 which was disposed of on 18.3.2015 with the following observations:-

“In the facts and circumstances stated above, in case the petitioner surrenders and seeks regular bail before the court of learned Chief Judicial Magistrate, Saharsa in connection with Saharsa Sadar P.S. Case No. 130 of 2014, then his prayer

for bail shall be considered on its own merit on the same day after considering the fact that final form has been submitted in this case.”

Regard being had to the above, this court declines relief prayed for in the present anticipatory bail application and permits the petitioners to surrender and seek bail in the Court below. In case they do so, the Court below shall consider their case on its own merit as also considering the observations which have been made by this Court in Cr. Misc. No. 9298 of 2015 and noticed hereinabove. The Court below shall not in any way prejudiced by the present order passed by this Court.

The anticipatory bail application stands disposed of.

(Kishore Kumar Mandal, J)

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