

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50053 of 2015

Arising Out of PS.Case No. -218 Year- 2015 Thana -GAYGHAT District- MUZAFFARPUR

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1. Ram Prasad Sharma, son of Late Thithar Sharma.
 2. Ram Udgar Sharma, son of Late Thithar Sharma.
 3. Raj Kishore Sharma, son of Ram Prasad Sharma.
 4. Ganesh Sharma, son of Ram Prasad Sharma.
 5. Baldeo Sharma, son of Ram Prasad Sharma.
- All resident of village - Sakarwara (Noor), P.S.-Gaighat, District - Muzaffarpur.

.... Petitioners.

Versus

The State of Bihar

.... Opposite Party.

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Appearance :

For the Petitioners : Mr. Vijay Kumar Singh, Advocate.
For the State : Mr. Lalan Kumar (APP)
For the Informant : Mani Bhushan Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER

3 11-12-2015 Learned counsel for the petitioners submits that the petitioner no.4 has already surrendered in the court below and seeks permission for withdrawl of this application in respect of petitioner no.4.

Permission is accorded.

This application in respect of petitioner no.4 is dismissed as withdrawn.

Now, this application shall proceed only against the petitioner nos.1 to 3 and 5.

Heard learned counsel for the petitioners and the learned

A.P.P. for the State as also the learned counsel for the informant.

The petitioners apprehends their arrest in connection with Gaighat P.S. Case No.218 of 2015 registered under Sections 302/34 of the Indian Penal Code, pending in the court of Sri Amit Kumar Dixit, Judicial Magistrate, First Class, Muzaffarpur.

The accusation is that on 09.08.2015 at about 09.00 A.M. the father of the informant had gone to his field to see the crops. When his father reached at the field, he saw seven accused persons including the petitioners cutting the ridge of the field and emerging the same in their field. When the father of the informant made protest, all the accused persons including the petitioners surrounded the father of the informant and assaulted him with fists and slaps and lathi and injured him and they also twist the neck of the father of the informant as a result of which the father of the informant fell down. Thereafter, on 'hulla' the villagers came there and took the father of the informant to his house. On seeing the serious condition of his father, the informant took his father to the S.K.M.C.H. Muzaffarpur and after primary check up, the informant took his father to Vinayak Hospital, Patna, but on seeing the serious condition of his father, doctor referred him to I.G.I.M.S., Patna, for better treatment but the father of the informant died in course of treatment on 15.08.2015 in the morning.

Learned counsel appearing on behalf of the petitioners

submits that for the occurrence said to have taken place on 09.08.2015, the F.I.R. was lodged on 15.08.2015. There is no eye witness to the occurrence.

On the other hand, learned counsel for the informant submits that on seeing the serious condition of the deceased, the father of the informant, the deceased was taken to the hospitals at Muzaffarpur and thereafter he was taken to Vinayak Hospital, Patna and from there he was referred to I.G.I.M.S. Patna. The post-mortem report of the deceased shows that the deceased died of head injury.

Having considered the facts and the circumstances of the case and the nature of allegation against the petitioners, I am not inclined to grant them anticipatory bail. Accordingly, their prayer for grant of anticipatory bail stands rejected. However, they are directed to surrender before the trial court within six weeks and pray for regular bail, which shall be considered by the trial court on its own merit without being prejudiced by the order of this Court.

(Rajendra Kumar Mishra, J)

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