

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11553 of 2015

Arising Out of PS.Case No. -261 Year- 2014 Thana -WARISNAGAR District- SAMASTIPUR

- =====
1. Awadhesh Mahto S/o Shivchandra Mahto, resident of village- Mathurapur, P.S.- Warisnagar (Mathurapur O.P.), Dist.- Samastipur
 2. Usha Devi W/o Awadhesh Mahto, resident of village- Mathurapur, P.S.- Warisnagar (Mathurapur O.P.), Dist.- Samastipur

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Sanjay Parasmani, Advocate.

For the Opposite Party : Mr. Narsing Tanti(App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 29-07-2015 Heard both sides.

The petitioners seek bail in a case registered for the offences punishable under Sections 302 and 34 of the Indian Penal Code.

The son of the deceased alleged that while Awadhesh Mahto petitioner no. 1 after taking wine was quarrelling with his wife petitioner no. 2 Usha Devi. Father of informant intervened, on such Awadhesh Mahto began to assault his father with fists and slaps. Rampravesh Mahto, the brother of petitioner no. 1 also came and assaulted the informant's father with fists and slaps. Usha Devi the petitioner no. 2 picked up a piece of brick and assaulted the father of the informant on the back just below the

neck.

It is submitted that the case does not fall within the purview of Section 302 of the Indian Penal Code as the petitioners are alleged to have assaulted with fists and slaps and piece of brick. The petitioner Awadhesh Mahto is alleged to have assaulted the deceased with fists and slaps but no corresponding injury was found in the post-mortem report.

Considering the facts aforesaid, the petitioner no. 1 Awadhesh Mahto is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Samastipur in Warishnagar (Mathurapur O.P.) P.S. Case No. 261 of 2014.

So far as the case of petitioner no. 2 Usha Devi is concerned, she is alleged to have assaulted with bricks and ribs were found fractured, hence, I am not inclined to enlarge her on bail. Accordingly, the same is rejected.

However, the trial court is directed to expedite the trial and conclude the same within nine months from the date of receipt/production of a copy of this order.

(Prabhat Kumar Jha, J.)

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