

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35206 of 2015

Arising Out of PS.Case No. -35 Year- 2015 Thana -SARE District- NALANDA (BIHARSHARIFF)

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1. Jasiya Devi Wife of Shiv Balak Choudhary,
2. Dharmendra Choudhary @ Naveen Choudhary, Son of Sri Shiv Balak Choudhary, Both resident of village - Khetalpura, P.S. - Sarey, District - Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md.Imteyaz Ahmad

For the Opposite Party/s : Mr. Sanjay Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

4 24-11-2015

Heard both sides.

Petitioner no. 1 Jasiya Devi apprehends arrest in a case registered for the offences punishable under sections 307, 302 and other allied sections of the Indian Penal Code.

The informant named the petitioner along with five other accused persons and alleged that they assaulted his father with sword, Khanti, Sickle, Fasuli. When the informant went to save, the accused persons also assaulted him and his sister Babita Devi. When the father of the informant was brought to P.M.C.H., the doctor opined that the father of the informant was brought dead.

Learned counsel for petitioner no. 1 submits that

there is case and counter case. Annexure-2 is F.I.R. of Sarey P.S. Case No. 33/15 which has been lodged on the basis of Fardbeyan of Shiv Balak Chaudhary, husband of petitioner no. 1 and the petitioner and others were also assaulted.

It is submitted that the prosecution side was aggressor as Shiv Balak Chaudhary, husband of petitioner no. 1 deposed against the informant and his father and that is why the occurrence took place. No specific allegation of assault is made against the petitioner no. 1.

On the other hand, learned counsel for the informant as well as learned Addl. P.P. opposed the prayer for bail and submitted that six persons are alleged to have assaulted father of the informant. Seven injuries are found on the person of Mahesh Choudhary, deceased, out of which six injuries are caused by sharp cutting weapon. The petitioner is also alleged to be armed with sharp cutting weapon.

Having considered the fact that petitioner no. 1 and others are alleged to have brutally assaulted the father of the informant and father of the informant Mahesh Chaudhary got as many as seven injuries, I am not inclined to grant the privilege of anticipatory bail to petitioner no. 1 Jasiya Devi in connection with Sarey P.S. Case No. 35 of 2015 pending in the court of the learned

Chief Judicial Magistrate, Nalanda at Biharsharif. Her prayer for anticipatory bail is, accordingly, rejected.

However, if so advised, petitioner no. 1 may surrender and pray for regular bail which shall be considered by the learned court below on its own merit without being prejudiced by this order of rejection taking into consideration the fact that there is case and counter case and dispose of the bail petition on the same day, if possible.

(Prabhat Kumar Jha, J)

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