

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34800 of 2015

Arising Out of PS.Case No. -46 Year- 2012 Thana -BAIRIYA District-
WESTCHAMPARAN(BETTIAH)

- =====
1. Kailash Chaudhary S/o Chokat Chaudhary
 2. Lal Babu Chaudhary S/o Chokat Chaudhary
 3. Prabhu Chaudhary S/o Satan Chaudhary
 4. Manoj Chaudhary S/o Kailash Chaudhary
 5. Sipahi Chaudhary S/o Ramadhar Chaudhary
- Petitioner No. 1, 2 & 4 are Resident of Village Bhitaha Bankatwa, Police Station Bairiya, District West Champaran. Petitioner No. 3 is Resident of Village Telhuan, Police Station nautan, District West Champaran. Petitioner No. 5 is Resident of Village Baswariya, Jhakhara, Police Station Nautan, District West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No.-7, Adv.
For the Opposite Party/s : Mr. Raj Kishor Singh (App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

3 30-10-2015 Heard both sides.

The petitioners apprehend their arrest in Bairiya P.S. Case No. 46/2012, registered for the offences punishable under Sections 302, 120B of the Indian Penal Code and 27 of the Arms Act.

The son of the deceased named 8 persons including the petitioners and alleged that all the accused persons chased his father to the bank of a river and brother-in-law of Vijay Chaudhary, namely Prabhu Chaudhary and Munna Chaudhary

fired. Kailash Chaudhary, brother-in-law of Raju Chaudhary, namely Sipahi Chaudhary and Chokat Chaudhay assaulted his father with dabia, sharp edged weapon, causing death of his father.

Sanjay Kumar, learned counsel for the petitioners submits that the police after investigation submitted charge-sheet against Chokat Chaudhary, Vijay Chaudhary and Munna Chaudhary. The investigation against the petitioners was kept pending but after final investigation the police submitted final form finding the case against the petitioners false, as the petitioners were found working in Himachal Pradesh and Mahipalpur, Delhi. Tower locations of their mobiles were in the vicinity of Delhi and Himachal Pradesh.

It is submitted that Munna Chaudhary, Chokat Chaudhary and Vijay Chaudhary have already been granted bail. Learned C.J.M. took cognizance against the petitioners differing with the finding of the investigating officer.

On the other hand, learned Additional P.P. vehemently opposed the prayer for bail.

It appears from the records that the informant named 8 persons in the FIR including these five petitioners and made very specific allegation that Prabhu Chaudhary (Petitioner no. 3) who



happens to be brother-in-law of Vijay Chaudhary and Munna Chaudhary fired. Thereafter, Kailash Chaudhary (petitioner no. 1) and Sipahi Chaudhary (petitioner no.5) along with Chokat Chaudhary are alleged to have inflicted dabia blow on the body of the deceased. The police after investigation found the case against the petitioners true also, but the petitioners were not appearing. The investigation against the petitioners was kept pending. Thereafter the police verified the plea of alibi and come to the conclusion that the petitioners were not present, but from perusal of records, I find that the police at the initial stage found very sufficient material and on perusal of records, it appears that learned C.J.M. took cognizance.

Considering the facts aforesaid and the fact that there is specific allegation against petitioner no. 1 Kailash Chaudhary and Sipahi Chaudhary (petitioner no. 5) that they inflicted dabia blow on the body of the deceased and Petitioner no. 3 Prabhu Chaudhary is alleged to have fired, I am not inclined to enlarge the petitioner nos. 1, 3 and 5 on anticipatory bail. Accordingly, the same is rejected.

So far as the case of petitioner no. 2 Lalbabu Chaudhary and petitioner no. 4 Manoj Chaudhary is concerned, there is no specific allegation of assault against these two

petitioners.

Considering the facts aforesaid, petitioner nos. 2 and 4 above named in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, are directed to be enlarged on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bettiah, West Champaran in connection with Bairiya P.S. Case No. 46/2012, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Prabhat Kumar Jha, J.)

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