

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24857 of 2015

Arising Out of PS.Case No. -446 Year- 2013 Thana -RUNISAIDPUR District- SITAMARHI

1. Md. Asharaf Son of Late Akhtar
2. Md. Sarfaraj @ Pappu Son of Late Akhtar Both are resident of village -
Koahi, P.S. Runni Saidpur, Distt. - Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar Verma

For the Opposite Party/s : Mr. Madhuri Lata(App)

CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA
ORAL ORDER

3 07-10-2015 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners seek bail in a case registered for the
offences punishable under Sections 302/379/34 of the Indian Penal
Code.

Allegedly the son of the informant, namely, Sunny
Kumar was returning as he could not get transportation and called
his maternal uncle, Birendra Singh, who found that Sunny Kumar
was tied by Prem Lal Rai and his associate Md. Ashraf, Petitioner
No.1, and were assaulting Sunny Kumar near the Scrap Shop of
Prem Lal Rai. When Birendra Singh tried to rescue him, he was
also terrified resulting he escaped from the scene and when he

returned at P.O. along with Dinesh Singh found the victim, Sunny Kumar, died and accused persons have taken away gold idol of Hanuman Jee, cash worth Rs.5,000/- and mobile phone.

Submission is of false implication and that the deceased was committing theft in the Scrap Shop of Prem Lal Rai, for which Runisaidpur P.S. Case No.447 of 2013 was lodged and when Sunny Kumar was caught at the spot then the mob assaulted him. Thereafter, he was taken to Primary Health Centre, Runisaidpur and there he was referred to S.K.M.C.H., Muzaffarpur but in the way he died, which is evident from paragraph Nos. 20 and 23 of the case diary and, as such, the presence of the maternal uncle of the victim when he says that when he returned, he saw Sunny Kumar dead, is not reliable. The house of the informant is 7 K.M. away from the place of occurrence and Birendra Singh has also been set up to be an eye witness of the occurrence which is not reliable. In this case, Md. Junaid has been allowed pre arrest bail by order dated 01.09.2015 of this Court passed in Cr. Misc. No.48922 of 2014, whereas Prem Lal Rai was directed to surrender in the court below and seek regular bail.

The petitioners are in custody since 24.03.2015 and as such, now, they deserve sympathetic consideration, as there is no

chance of tampering with the prosecution evidence. Further against them, there is no specific allegation.

Learned A.P.P. opposes the prayer for bail of the petitioners.

Considering that the deceased was assaulted by the mob at the Scrap Shop of co-accused Prem Lal Rai and against the petitioners, there is no allegation, charge sheet has already been submitted and there is no chance of tampering with the prosecution evidence, the petitioners, above named, are directed to be released on bail on furnishing bail bond of Rs.10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Sitamarhi in connection with Runnisaidpur P.S. Case No.446 of 2013, subject to the conditions that one of the bailors must be a near relative and another having sufficient immovable property within the territorial jurisdiction of the court concerned and the petitioners shall remain present on each and every date during trial and the default on two consecutive dates on his part without any reason shall disentitle the petitioners from privilege of bail.

(Jitendra Mohan Sharma, J)

V.P.Sinha/-

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