

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2191 of 2016

Arising Out of PS.Case No. -143 Year- 2015 Thana -GAUNAHA District-
WESTCHAMPARAN(BETTIAH)

- =====
1. Dhuri Baitha @ Dhri Baitha son of Bhola Baitha,
 2. Mahendra Baitha Son of Dhuri Baitha,
 3. Yogendra Baitha @ Jogendra Baitha, Son of Dhuri Baitha, All are
Resident of Village - Lachhnauta, Police Station - Gaunaha, 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

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

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**
ORAL ORDER

3 31-03-2016 Heard the learned counsel for the petitioners, the

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

Informant.

The petitioners seek bail in a case for the offences
punishable under sections 147, 148, 149, 323, 338, 307 and 302 of
the I.P.C

In the First Information Report there is general and
omnibus allegation against the petitioners and other co-accused
who have assaulted Janardhan Yadav, the younger brother of the
informant, brutally resulting during treatment he died in P.M.C.H.
Patna and the informant received information through his father.

In P.M.C.H. Patna statement of Harendra Yadav, the father of the deceased, was recorded wherein he has made specific allegation against petitioner Yogendra Baitha @ Jogendra Baitha and Mahendra Baitha that Yogendra Baitha with farsa and Mahendra Baitha with garasa assaulted Janardhan Yadav on his head causing serious injury and others assaulted with bricks and stones.

Submission is of false implication and that there is contradiction in the statement of the informant from the statement of Harendra Yadav, the petitioner nos. 1 and 3 are in custody since 23.09.2015, whereas, petitioner no.2 is in custody since 19.09.2015 and they all have surrendered voluntarily in the court below, as a matter of fact Janardhan Yadav fell down from his she-buffalo when he was going for bath of she-buffalo resulting he sustained injury and he was referred to the P.M.C.H where he died, Harendra Yadav is not an eye witness which is evident from his statement itself and as such the petitioners deserve sympathetic consideration.

The learned A.P.P. duly assisted by the learned counsel for the informant opposes prayer for bail by submitting that the medical evidence supports the prosecution version as on the occipital region injuries have been found and the cause of death is also due to the head injury.

In the facts and circumstances as stated above, considering that neither the informant nor his father are the eye witnesses and there is general and omnibus allegation, charge sheet has already been submitted and there is no chance of tampering with the prosecution evidence and as such the petitioners are directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of C.J.M. Bettiah, West Champaran in Gaunaha P.S. Case No. 143 of 2015, 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 their part without any reason shall disentitle the petitioners from privilege of bail.

(Jitendra Mohan Sharma, J)

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