

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35252 of 2015

Arising Out of PS.Case No. -91 Year- 2015 Thana -BHARGAWAN District- ARRARIA

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1. Masleuddin @ Md. Masleuddin son of Md. Ibrhim
 2. Md. Salam son of Md. Ibrahim
 3. Khairon Nishan wife of Md. Ibrahim
 4. Soni Khatoon wife of Mukhtar
 5. Md. Sakoor son of late Md. Wajid All are residents of village - Baijupatti, Ward No. 4, P.S. - Bhargama, Dist - Araria.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Singh
For the Opposite Party/s : Mr. Ganesh Pd.Singh(APP)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 09-02-2016 Heard learned counsel for the petitioners and learned Additional Public Prosecutor appearing on behalf of the State.

This application for grant of anticipatory bail arises out of Bhargama P.S. Case No. 91 of 2015, disclosing offences under Sections 147,148,149,341,323,324,307,302,436,504 of the Indian Penal Code.

Briefly stated, the case of the prosecution is that on the alleged date of occurrence, i.e., 12.05.2015, accused persons including these petitioners armed variously came to the house of the deceased, Md. Naim. It is alleged that they started assaulting the deceased. Co-accused Md. Mukhtar is said to have shot at him with pistol which led to his death. One co-accused Md. Naushad is said to have caused injury on the head of the informant, Md. Moin when he

was trying to rescue the deceased. Md. Sakoor (Petitioner No.5) is said to have assaulted the younger brother of the deceased with lathi.

Learned counsel for the petitioners has submitted that these petitioners have been implicated because of the dispute between the family of the deceased and these petitioners. The petitioners belong to the same family, some of whom are ladies. He further submits that there is absolutely no assault attributed to the petitioner Nos. 1 to 4. So far as petitioner No.5 (Md. Sakoor) is concerned, it is submitted that the injury allegedly caused because of the assault made by him has been found to be simple in nature.

Learned Additional Public Prosecutor, appearing on behalf of the State has submitted that so far as petitioner Nos. 1, 2, 3 and 4 are concerned, it has been found that they had formed unlawful assembly, though no specific role of assault has been attributed to them.

Considering the facts and circumstances and submission that even in course of investigation no material has surfaced showing any specific role of petitioner Nos. 1 to 4, this application to the extent it relates to them are allowed. Let the petitioner Nos. 1 to 4 above-named in the event of their arrest/surrender within four weeks from today in the Court below, 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 Sri S.K. Singh, learned Judicial Magistrate Ist Class, Araria in Bhargama P.S. Case No. 91 of 2015, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioners No. 1 to 4 above-named shall present themselves before the police/Court, as the case may be, as and when required and in the event of failure on their part to appear before the Court on two consecutive occasions, their bail bonds shall be liable to be cancelled.

So far as anticipatory bail of petitioner No.5 (Md. Sakoor) is concerned, the same is dismissed.

Petitioner No.5 is directed to surrender before the Court below within six weeks and seek regular bail, if so advised. If he does so, his application for regular bail shall be considered on its own merit without being prejudiced by rejection of present application for grant of anticipatory bail.

(Chakradhari Sharan Singh, J)

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