

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.33016 of 2016

Arising Out of PS.Case No. -100 Year- 2016 Thana -PATORI District- SAMASTIPUR

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1. Nageshwar Singh S/o Ram Bahadur Singh
2. Subodh Singh, S/o Late Ram Chandra Singh.
3. Asha Devi, W/o Rajesh Kumar Singh.
4. Sumitra Devi, W/o Late Rajendra Singh.
5. Sushila Devi @ Kaushalya Devi, W/o Late Bishundeo Singh @ Bishuni Singh (wrongly mentioned in the FIR as Kaushalya Devi, W/o Bishuni Singh) All resident of Village -Ramgama, P.S- Patori, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sachin Kumar, Advocate.

For the Opposite Party/s : Mr. Sri Umeshnand Pandit, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

2 19-08-2016

Heard learned counsel for the petitioners and learned

Special P.P. for the State.

Petitioners apprehend their arrest in connection with Patory P.S.Case No. 100/2015 (G.R. No. 777/2016) registered for offences punishable under Sections 147, 148, 341, 323, 324, 307, 379 of the Indian Penal Code and Section 3 (x) of the SC/ST Act.

The prosecution case as lodged on the basis of fardbeyan of one Sanjeet Kumar Baitha on 23.03.2016 before the A.S.I., Patory P.S. is that when he was studying in his house in the night and other family members were sleeping in the house, his co-villagers/accused persons came with lathi, Hansua, Danda, Gun and bricks and started abusing and assaulting his son namely,

Vicky Kumar . When all the family members ran to save his son the accused persons including these petitioners started assaulting and injured them badly and looted Rs. 10,000/- with a silver chain weighing 10 bhar from his house. It is also alleged that with a view to rape they pulled the clothes of his wife and after resistance, Rahul Kumar and petitioner No. 1 tore her blouse and dragged her to the main gate. It is also alleged that seeing all this, neighboring women saved her modesty by putting a sari on her. It is also alleged that the cause of alleged offence was that he was filling soil into his land by tractor, which the accused persons had protested. He further alleged that they often used to threaten them to kill and throw bricks in his court-yard and also threatened to kidnap his son. According to the informant, the accused persons are of criminal nature and unruly. It was apprehended that they can harm them anytime.

Learned counsel for the petitioners submits that they are innocent and have been falsely implicated in the aforesaid case. He submits that the petitioners and the informant's side are next door neighbors and dispute is regarding the Khatiyani land, which they were filling for which the informant's side objected. He further submits that for the same incident on the same date, a counter case being Patory P.S.Case No. 101/2016 has been lodged by the petitioners' side and Informatory petition was also filed a month before the alleged occurrence. He further submits that the

matter relates to land dispute and that the petitioners have no criminal history as is evident from para-3 of this application. It has been submitted that Section 307 is not applicable and Section 3 (x) of the SC/ST Act is also not applicable as the incident has occurred in the house of the informant and there is no allegation of insult or abuse within public view.

However, learned A.P.P. for the State submits that the petitioners are named in the F.I.R. hence, opposes the prayer for bail.

Be that as it may, let the petitioners, above named, in the event of their arrest or surrender before the Court below within a period of eight weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand only) each with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Samastipur in connection with Patory P.S.Case No. 100/2016 (G.R. No. 777/2016), subject to the conditions as laid down under Section 438 (2) of the Cr. P.C.

(Nilu Agrawal, J)

Sudha/-

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