

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 44088 of 2016

Arising Out of PS.Case No. -28 Year- 2016 Thana –CHANDRAMANDIH District- JAMUI

- =====
1. Reshmi Devi W/o Pakauri Sah @ Pakauri Saw.
 2. Hakim Sah @ Hakim Saw S/o Late Panchu Sah @ Panchu Saw.
 3. Kusum Sah @ Kusum Saw S/o Late Panchu Sah @ Panchu Saw.
 4. Bhagirath Sah @ Bhagirath Saw S/o Late Panchu Sah @ Panchu Saw
- All are R/o Vill- Charghara, P.S.- Chandramandih, Distt.-Jamui.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Amar Prakash, Advocate
For the State	:	Mr. Tapeswar Sharma, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 17-10-2016

Heard learned counsel for the parties.

The petitioners apprehend arrest in connection with Chandramandih P.S. Case No. 28 of 2016 dated 25.04.2016 instituted under Sections 302/328/120B of the Indian Penal Code.

The allegation against the petitioners, who are the second wife and brothers of the husband of the deceased, is of killing her by administering poison.

Learned counsel for the petitioners submits that petitioner no. 1 was married to the husband of the deceased with the approval of the deceased as she was childless. It is submitted that she has no role to play in the entire episode. Learned counsel submits that petitioners no. 2, 3 and 4 being brothers of the

deceased also have no role as they are living separately and there was no complaint against them even in the past.

Learned A.P.P. opposes the prayer for anticipatory bail and submits that the deceased had earlier filed a case bearing G.R. Case No. 1875 of 2010 in which she has deposed before the Court on 04.09.2013 and in her examination-in-chief she has stated about petitioners no. 2, 3 and 4, with regard to assault but in the cross-examination she has stated that she was not tortured and that she has agreed to the second marriage. It is submitted that there being no reason for filing a false case by the deceased and from the stand in the cross-examination it is obvious that the woman, being helpless, has no other option but to compromise the matter, if she wanted to live in the matrimonial home and, thus, it was due to this reason that the deceased was more or less compelled to compromise. It is submitted that the post-mortem report clearly shows that froth was coming out from the mouth of the deceased which indicates poisoning and the petitioners, being family members of the husband of the deceased, cannot plead innocence or ignorance.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioners on anticipatory bail.

The application, accordingly, stands dismissed.

However, in the event the petitioners surrender and seek for regular bail before the Court below, within one

month from today, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

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