

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9431 of 2016

Arising Out of PS.Case No. -74 Year- 2015 Thana -CHANPATIA District-
WESTCHAMPARAN(BETTIAH)

- =====
1. Bada Babu, S/o Raj Kishor Giri
 2. Chhota Babu, S/o Raj Kishor Giri Both are resident of Village- Parsa, Giritola, P.S.- Sirsia O.P., District- West Champaran.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Abhay Kumar Singh, Advocate.

For the Opposite Party : Mr. Ambika Bhagat, Spl.PP

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 29-02-2016 Heard learned counsel for the petitioners and the
learned APP for the State.

Petitioners are in judicial custody since 30.12.2015 for offences alleged under Sections 147, 148, 149 , 341, 323, 324, 307 and 302 of the Indian Penal Code and Sections 3(ii)(V) SC & ST Act in connection with Chanpatia (Sirisia OP)P.S.Case No.74 of 2015.

The prosecution case on the basis of thumb impression fardbeyan of the informant by ASI Upendra Prasad Yadav, Bettiah town on 18.04.2015 at 7.00 A.M. at MJK, Hospital, Bettiah having alleged that on 17.04.2015 at 6.00 P.M. he was throwing Khad (Gobar) in his land then (1) Thela Ram (2) Upendra Ram (3)

Akhilesh Ram (4) Rangila Ram, (5) Chabila Ram, (6) Ghanshyam Ram (7) Guddu Giri (8) Ajay Giri (9) Chota Babu (10) Bara Babu (11) Manju Devi (12) Sunaina Devi (13) Naulakh Giri (14) Bidesh Giri and (15) Kanhaiya Giri, all resident of Parsa Giri tola started assaulting the informant and his son by legs and fists and injured them. The informant and her son were taken to MJK Hospital, Bettiah for treatment. During treatment Bhola Ram, son of the informant died.

It has been submitted by learned counsel for the petitioners that the provisions of Sections 3(ii)(v) of the SC/ST Act is not applicable as they also members of the Scheduled Caste. It has further been submitted that there is a counter version bearing Chanpatia (Sirisia) P.S.Case No.73 of 2015 instituted by one Thela Ram in which one of the accused from the petitioners' side is a witness of the present case and is a earlier counter case instituted by them. In fact, in the said case, wife of the informant Thela Ram had been killed by the informant's side. It has further been contended that the allegation is against many persons who caused injury by *lathi*, fists and slaps and the allegation is general and omnibus. He submits that on killing of the wife of Thela Ram, the deceased was attacked by mob in retaliation wherein the mother who is the informant has got the accused persons

implicated with false allegations. It has also been submitted that the two of the co-accused have already been granted privilege of anticipatory bail by a coordinate Bench of this Court in Cr.Misc.No.32098 of 2015 on 11.02.2016 on similar, general and omnibus allegation

However, the learned APP opposes the prayer for bail as the petitioners are named in the FIR.

Be that as it may, let the above named petitioners 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 learned Chief Judicial Magistrate, West Champaran, Bettiah in connection with Chanpatia (Sirisia) P.S.Case No.74 of 2015 subject to the following conditions:-

The petitioner shall present themselves before the police/court as and when required and failure to appear before the court on two consecutive dates, will entail cancellation of their bail bonds.

(Nilu Agrawal, J)

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