

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48246 of 2015

Arising Out of PS.Case No. -9 Year- 2015 Thana -KATEYA District- MUZAFFARPUR

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1. Satahu Mahto Son of Asarfi Mahto
2. Umesh Mahto Son of Satahu Mahto
3. Awadh Mahto Son of Bigu Mahto
4. Dinesh Kumar @ Dinesh Mahto @ Madho Mahto Son of Satahu Mahto
All above residents of village - Rampur Bheriyahi, Police Station -
Kathaiya, District - Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar, Adv.

For the Opposite Party/s : Mr. A.K.Chaudhary(App)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

3 18-01-2016 Heard learned counsel for the petitioners as well as
learned A.P.P. for the State.

The petitioners seek bail in connection with Kathaiya
P.S. Case No. 09/2015 registered for the offences punishable
under Sections 147, 148, 149, 341, 323, 324, 307, 302, 504 & 506
of the Indian Penal Code.

Allegedly, due to land dispute Anil @ Guddu was
assaulted by petitioner Umesh Mahto with spear on his back, by
petitioner Awadh Mahto with Dab on his neck and by petitioner
Dinesh Kumar by Farsa on his head and back resulting Anil fell
down and when the informant tried to rescue him, petitioner

Satahu Mahto and other co-accused caught him and when Anil was brought for treatment at Muzaffarpur, he died.

Submission is of false implication and that fardbeyan has been recorded on 24.02.2015 at 6.30 PM at S.K.M.C.H., Muzaffarpur where as post-mortem was commenced at 5.30 PM itself on the same date, the injuries found on the person of the deceased are different than as alleged in the fardbeyan, no spear injury has been found, as injury caused by spear will be penetrating wound, admittedly there is land dispute, there is case and counter-case and as such the petitioners who are suffering in custody since 04.03.2015 and 11.03.2015 deserve sympathetic consideration.

Learned A.P.P. duly assisted by learned counsel for the informant opposes the prayer of bail by submitting that petitioner nos. 2, 3 and 4 are the assailant and sharp cut injury can be caused by spear also. The doctor has found three injuries on the person of the deceased and as such the petitioners do not deserve bail.

In the facts and circumstances stated above, considering that petitioner nos. 2, 3 and 4 allegedly are assailants and as such, I am not inclined to enlarge petitioner nos. 2, 3 and 4 on bail and accordingly their such prayer stands rejected.

However, against petitioner no. 1, there is only

allegation that he caught the informant and as such petitioner no. 1 Satahu Mahto is directed to be released on bail on execution of bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Sri V.K. Choubey, Judicial Magistrate 1st Class, Muzaffarpur in connection with Kathaiya P.S. Case No. 09 of 2015, subject to the conditions that one of the bailors must be near relative and another having sufficient immovable property within the territorial jurisdiction of the court concerned and the petitioner shall remain present on each and every date during trial and the default on two consecutive dates on his part without any reason shall disentitle the petitioner from privilege of bail.

Considering the detention of the petitioner nos. 2, 3 and 4, let the trial be expedited. The learned trial Judge is directed to conclude the same as early as possible preferably within nine months.

(Jitendra Mohan Sharma, J.)

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