

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32250 of 2016

Arising Out of PS.Case No. -55 Year- 2007 Thana -BANIAPUR District- SARAN

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1. Shiv Kumar Kushwaha Son of Laxuman Prasad Kushwaha
 2. Luxman Kushwaha @ Laxuman Prasad Kushwaha @ LaxumanSingh Son of Late Shiv Balak Singh
 3. Laljhari Devi Wife of Laxuman Prasad Kushwaha
 4. Raj Kumar Prasad Kushwaha @ Raj Kumar Kushwaha Son of Laxuman Prasad Kushwaha
 5. Bajrang Prasad Kushwaha Son of Laxuman Prasad Kushwaha All above residents of village- Bangali Bhiththi, Police Station- Baniyapur, District- Saran

.... Petitioner/s

Versus

1. The State of Bihar
2. Narsing Prasad Son of Late Mahesh Prasad Resident of Village-Asoiya, Police Station- Marhourah

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satya Prakash
For the Opposite Party/s : Mr. Sri Rajendra Nath Jha

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL ORDER

2 26-08-2016 Heard learned Counsel for the petitioners and learned Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises out of Baniyapur Police Station Case No. 55 of 2007, disclosing offences under Sections 304B/201 of the Indian Penal Code.

The petitioner no. 1 is the husband of the deceased; whereas petitioner nos. 2 and 3 are father-in-law and mother in law of the deceased. The petitioner nos. 4 and 5 are brothers of the husband of the deceased.

On the basis of a complaint case, filed by Opposite Party No. 2, the aforesaid First Information Report came to be registered.

It transpires from the record that upon completion of investigation, the police submitted final report finding it to be a case of mistake of fact. The said report, it appears, has been accepted by the learned Magistrate. However, on the basis of a protest -cum- complaint petition, cognizance has been taken and summonses had been issued and, therefore, the petitioners apprehend their arrest.

Considering the fact that the police report, finding the case to be a mistake of fact, has been accepted by the Court below, and it has proceeded on the basis of protest -cum- complaint petition, this application is allowed.

Let the petitioners, namely, Shiv Kumar Kushwaha, Luxman Kushwaha @ Laxuman Prasad Kushwana @ Laxuman Singh, Laljhari Devi, Raj Kumar Prasad Kushwaha @ Raj Kumar kushwaha and Bajrang Prasad Kushwaha, in the event of their arrest or surrender before the Court below within six weeks, 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 Shri Rakesh Kumar Yadav, Judicial Magistrate, 1st Class, Saran, at Chapra, in connection with Protest Petition No. C 1051 of 2012, arising out of Baniyapur Police Station Case No. 55 of 2007, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioners 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.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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