

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53737 of 2015

Arising Out of PS.Case No. -106 Year- 2014 Thana -CHHATAPUR District- SUPAUL

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1. Md. Farukh Son of Md. Salim @ Late Muslim Resident of village - Jhakhargarh, P.S. Chhatapur, District - Supaul
 2. Wolli Mohammad Son of Shaikh Hameed
 3. Md. Inzar @ Md. Anjar Son of Wolli Mohammad
 4. Md. Ansar Son of Wolli Mohammad
 5. Md. Anwar Son of Wolli Mohammad
 6. Md. Mozahid @ Md. Zahir @ Md. Jalil Son of Behbood @ Md. Samad @ Samad
 7. Bibi Asmina Khatun @ Biwi Ashmiha Khatoon Wife of Md. Mozahid @ Md. Zahir @ Md. Jalil
 8. Bibi Koresa Khatun@ Biwi Kuresha Wife of Wolli Mohammad Serial Nos. 2 to 8 are resident of village - Chhatapur, P.S. Chhatapur, District - Supaul

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Jha

For the Opposite Party/s : Mr. Akbar Ali (App)

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

4 23-02-2016

Heard both sides.

All the petitioners cited in the First Information Report registered under Sections 147,341,447, 323, 379, 360 and 302 of the IPC vide case no. Chhatapur P.S. case no. 106 of 2014 have filed the present application seeking anticipatory bail.

The allegation as per the First Information Report is that on 13.04.2014 the accused persons started forcibly cutting wheat crop from the field of the informant. The same protested by

his son Md. Jahur. All the accused brutally assaulted him as a result whereof he started vomiting blood and later in course of treatment he died.

Contention of the petitioners is that there is delay of nearly three days in lodging the case. Earlier petitioners had lodged a case against the informant and the deceased vide Annexure-2. This is counter blast of the said case . The informant did not go to the nearby police station and instead went to Narpatganj for lodging the case. This creates doubt. Witnesses in course of the investigation has stated that the deceased was suffering from cancer and as such he died a natural death and using his death the FIR has been lodged with the concocted allegations. It is further stated that there is no eye witness of the case.

Learned counsel for the State has, however, opposed the prayer and submitted that the witnesses in course of investigation have supported the allegation. The post mortem report of the deceased indicates voluminously the assault received by the deceased at the hands of the petitioners causing external and internal injuries which became fatal. The defence of the petitioners that the deceased died of natural death of cancer cannot be accepted in consideration of the bail application.

Having regard to the submissions of the parties and on going through the allegations levelled against the petitioners, the post mortem report in respect of the deceased as also the facts evident from the impugned order, I am not inclined to extend the privilege of anticipatory bail to petitioner nos. 1 to 7. Prayer on their behalf stand rejected.

In so far as the petitioner no.8, namely, Bibi Koresa Khatun @ Biwi Kuresha is concerned, considering the fact that she is lady and stated to be 70 years of age, I am inclined to extend the privilege of anticipatory bail. Let the petitioner no.8, named above, in the event of her arrest/surrender before the learned Court below within a period of four weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned C.J.M. Supaul, in connection with Chhatapur P.S. case no. 106 of 2014, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with further following conditions:-

- (i) One of the bailors shall be the own/close family member of the petitioner.
- (ii) As soon as the charges are framed the petitioner shall appear in person before the trial court on

the date(s) fixed at the trial. In case of default in such appearance on two consecutive dates, the trial Court shall have liberty to cancel the bail bonds of the petitioner and secure her arrest in accordance with law.

(Kishore Kumar Mandal, J)

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