

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9339 of 2017

Arising Out of PS.Case No. -489 Year- 2016 Thana -BIHTA District- PATNA

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1. Subash Rai, S/o Ramji Rai
 2. Mukesh Kumar, S/o Ramji Rai
 3. Nitish Kumar, S/o Surya Narayan Rai
 4. Santosh Kumar, S/o Surya Narayan Rai
 5. Ramji Rai, S/o Late Jagdish Rai, all residents of Village -Amnabad,
P.O. - Katesar, P.S. - Bihta, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Viveka Nand Singh, Advocate

For the Opposite Party/s : Mr. Tarun Prasad Mandal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3/ 28-03-2017

Heard learned counsel for the Petitioners and the
State.

The Petitioners apprehend their arrest in Bihta P.S.
Case No.489 of 2016 instituted for the offence under Section(s)
302/34 Indian Penal Code.

It is alleged in the written report that all these
petitioners assaulted the son of the informant on account of which
he died. It is further alleged in the written report that co-accused
Suryanarayan Rai, Subash Rai (petitioner No.1), Santosh Kumar
(petitioner No.4) assaulted the informant first and pushed him
down and thereafter other accused persons also assaulted with
Pasa (wooden part) of spade and also pressed the neck.



Counsel for the petitioners submits that in the Post Mortem Report doctor has not found any external injury.

Counsel for the informant has submitted that in the Post Mortem Report the doctor has opined cause of death as shock and asphyxia leading to cardio respiratory arrest caused by hit over head.

Learned APP has submitted that the witnesses in different paragraphs have taken name of these petitioners.

There is specific allegation against petitioner No.1 (Subash Rai) and 4 (Santosh Kumar), which also gets supports from the statement of the witnesses in the case diary.

In view of such, I am not inclined to extend the privilege of anticipatory bail to petitioner Nos.1 and 4. Their prayer for bail is rejected.

Petitioner Nos.1 and 4 may surrender before the Court below and seek regular bail, which shall be considered and disposed of on its own merit without being prejudiced by this order.

So far as petitioner Nos. 2, 3 and 5 are concerned, there is no allegation of any specific overt act against them.

In the facts and circumstances of the case, prayer of the petitioner Nos.2, 3 and 5 for grant of anticipatory bail is



allowed. In the event of surrender/arrest of the petitioner Nos.2, 3 and 5, named above, within six weeks from today in connection with Bihta P.S. Case No.489 of 2016, they shall be released on anticipatory bail on furnishing bail bond of ₹10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the Additional Chief Judicial Magistrate, Danapur, Patna, subject to the conditions as laid down under Section 438(2) Cr. P. C.

(Sanjay Priya, J)

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