IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.46578 of 2016

Arising Out of PS.Case No. -55 Year- 2016 Thana -RAFIGANJ District- AURANGABAD

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1. Gupta Singh Son of Late Bhekha Singh
2. Mahendra Singh Son of Late Gaya Singh
3. Nagendra Singh Son of Vyas Singh
4. Surendra Singh Son of Gupta Singh
5. Rachita Singh Son of Late Shankar Dayal Singh
6. Dara Singh @ Sachitanand Singh Son of Late Shankar Dayal Singh
7. Anjay Kumar @ Anjay Kumar Singh Son of Awadesh Singh
8. Manish Kumar @ Manish Kumar Singh Son of Awadesh Singh
9. Deepak Kumar Son of Chitan Singh All Residents of village - Danai, P.S. Rafiganj, District Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Lal Babu Singh, Adv.
For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 11-01-2017 Heard both sides.

The petitioners apprehend their arrest in Rafiganj P.S. Case No. 55/2016, registered for the offences punishable under Section 307 and other sections of the Indian Penal Code and Section 27 of the Arms Act.

Anil Singh the informant named the petitioners along

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with other accused persons and alleged that all the accused persons assaulted Santu Kumar, Mantu Kumar, Jai Ram Singh, Parmanand Singh, Basanti Devi, Champa Devi, Chandan Kumar and injured them on petty dispute.

Learned counsel for the petitioners submits that after one month of the occurrence, Jai Ram Singh died and thereafter Section 302 of the Indian Penal Code was added. It is submitted that no specific allegation of assault is made against the petitioners.

From perusal of para 82 of the case diary, it would appear that Jai Ram Singh was admitted in Magadh Hospital for treatment on 23.03.2016 vide registration no. 6086 and he was discharged on 31.03.2016. It has nowhere come in the entire case diary that Jai Ram Singh was admitted in Sadar Hospital Aurangabad. The Statement of Jai Ram Singh has not been taken anywhere nor the injury report incorporated in the case-diary. Jai Ram Singh died on 21.04.2016. From perusal of post-mortem report, it would appear that there was no injury on the person of Jai Ram Singh and the cause of death could not be ascertained by the doctor. There is no material on record to show that Jai Ram Singh died on account of assault made by the petitioners.

Learned A.P.P. however, opposed the prayer for

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anticipatory bail of the petitioners.

From perusal of F.I.R., it appears that Anil Singh (informant) named the petitioners and others and made omnibus and general allegation of assault against them. From perusal of case-diary, it appears that the Investigating Officer collected the injury report of Parmanand Singh, Anil Singh (informant), Champa Devi, Basti Devi and Chandan Kumar, but did not get the injury report of the deceased Jai Ram Singh. The statement of Jai Singh son of Satyanarayan Singh recorded in para 74 of the case diary and he made omnibus and general allegation of assault against the petitioners and others. From perusal of post-mortem report, it appears that there was no injury and some old scar marks were found. The doctor could not ascertain the cause of death of the deceased. Viscera is kept reserved. It appears that there is no material to show that on account of assault made by the petitioners, Jai Ram Singh (deceased) died.

Considering the facts aforesaid, the petitioners above-named, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, are directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the

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satisfaction of Chief Judicial Magistrate, Aurangabad in connection with Rafiganj P.S. Case No. 55/2016, subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

(Prabhat Kumar Jha, J.)

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