

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49743 of 2017

Arising Out of PS.Case No. -60 Year- 2016 Thana -BASNAHI District- SAHARSA

- =====
1. Suresh Yadav, S/o Late Debo Yadav,
 2. Jhakash Yadav @ Jhakas Yadav, S/o Late Debo Yadav, Both are resident of Village- Barsam, P.S.- Basnahi, District- Saharsa.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar

For the Opposite Party/s : Mr. Sri Rajendra Prasad Nat

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 28-11-2017

Heard the counsels for the parties.

The petitioners seek bail in connection with Basnahi P.S. Case No. 60 of 2016 dated 07.09.2016 instituted for the offences under Sections 147, 149, 341, 323, 379, 302, 504 of the Indian Penal Code.

The informant is son of the deceased.

According to the F.I.R, the informant along with his uncle Ganesh Yadav and his father Naresh Yadav (deceased) were sleeping in the outhouse. At about 12:00 A.M. in the night, when the informant awoke on some ruckus, he saw the petitioners and others assaulting the father of the informant.

It would be relevant here to state that the informant and his uncle were sleeping at a short distance from the



father of the informant. When the informant tried to rescue his father, he was restrained from going there. The uncle of the informant was also restrained from rescuing the father of the informant.

In the later part of the F.I.R, it has been alleged that the informant heard one Narayan Yadav exhorting the petitioners for killing the deceased by strangulating him. Though the deceased died because of strangulation, but admittedly, nobody has seen the occurrence; not even the informant, who was sleeping just by the side of the deceased.

During the course of investigation, another brother of the deceased was put a pointed question as to why were the informant and Ganesh Yadav (elder brother of the deceased) were left unhurt for which he had no answer.

What strikes the Court at this stage is that none of the accused persons are alleged to be armed with any lethal weapon. There were three persons including the deceased from the prosecution side. Under such circumstances, it was difficult for three of the accused persons to have committed murder of the deceased by strangulation. That apart, if the informant or Ganesh Yadav (elder brother of the deceased) have not seen as to who had actually strangulated the deceased, it would be very difficult to pin



point the petitioners for having killed the deceased. Whether the orders of co-accused Narayan Yadav was executed by the accused persons including the petitioners also remain in the realm of suspicion.

The petitioners are in custody since 09.08.2017.

Taking into account the aforesaid facts, this Court is inclined to grant bail to the petitioners.

The petitioners, above named are directed to be released on bail on their furnishing bail bonds of Rs. 10,000/-(ten thousand) each with sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, IV, Saharsa in connection with Basnahi P.S. Case No. 60 of 2016.

(Ashutosh Kumar, J)

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