

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11834 of 2016

Arising Out of PS.Case No. -894 Year- 2015 Thana -HAJIPUR District- VAISHALI(HAJIPUR)

- =====
1. Vikash Kumar Son of Vishwanath Singh, Resident of village- Sahdullapur, P.S.- Gangabriz, District- Vaishali
 2. Umesh Rai, Son of Late Mahendra Rai, resident of village- Lodipur, P.S.- Town, District- Vaishali

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Vinay Ranjan, Advocate.

For the Opposite Party : Mr. A.K. Choudhary (App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

6 10-01-2017 Heard both sides.

The petitioners apprehend their arrest in Vaishali Town P.S. Case No. 894 of 2015, registered for the offences punishable under Section 302 and other Sections of the Indian Penal Code.

The informant alleged that the auto rickshaw of his nephew Rakesh Kumar dashed against the vehicle of Shivjee Rai @ Birendra Kumar who assaulted Rakesh Kumar. It is further alleged that on the same day at 02:00 P.M. while the deceased was returning to his house, the petitioner and other accused persons intercepted his auto rickshaw near Ram Chaura Temple and forcibly took him to the house of one Papa Rai and all the accused persons assaulted him with different weapons. The deceased



Rakesh Kumar was taken to Sadar Hospital, Hajipur from where he was being taken to PMCH but he succumbed to the injuries.

Learned counsel for the petitioners submits that the petitioners are innocent and they have, in fact, committed no offence but there is no eye witness of the occurrence. The informant alleged that Rakesh Kumar died on his way to PMCH but from perusal of paragraph-97 of the case diary, it would appear that Rakesh Kumar was admitted in PMCH and the informant and his men unscrupulously took him to somewhere else. It is further submitted that similarly situated accused persons namely Sudhir Singh @ Loha Singh @ Sudhir Kumar and others have been granted bail vide order dated 29.02.2016 passed in Cr. Misc. No. 8639 of 2016. The case of the petitioners stands on the same footing but from perusal of the FIR and the case diary, it appears that the witnesses, at the very initial stage of investigation, have very categorically stated that the petitioners and others took Rakesh Kumar and brutally assaulted him consequently Rakesh Kumar died on way to PMCH. At the later stage of investigation, the police took the statement of so called independent witnesses but there is nothing on record to disbelieve the statement of the eye witnesses.

Considering the facts aforesaid, I am not inclined to



enlarge the petitioners above named on anticipatory bail.

Accordingly, the same is rejected.

The petitioners, if so advised, may surrender before the court below within four weeks from the date of receipt/production of a copy of this order and pray for regular bail, their prayer shall be considered on its own merit without being prejudiced by this order and taking into consideration that similarly situated accused have been granted bail and dispose of the bail petition on its own merit.

(Prabhat Kumar Jha, J.)

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