

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6177 of 2017

Arising Out of PS.Case No. -109 Year- 2016 Thana -KASBA District- PURNIA

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1. Md. Asfar @ Asfar @ Md. Afsar, S/o Late Asfaque,
 2. Sakib @ Md. Sakib, S/o Abid,
 3. Md. Shamim, S/o late Jamil,
 4. Md. Istiyaque, S/o late Jamil,
 5. Md. Moish, S/o Fatkan, all resident of Village- Sanjheli, P.S.- Kasba, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajit Ranjan Kumar, Advocate
For the Opposite Party/s : Mr. Ram Sumiran Roy, APP
Mr. Md. Anisur Rahman, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4/ 20-03-2017

Heard learned counsel for the Petitioners and the State.

The Petitioners apprehend their arrest in Kasba P.S.

Case No.109 of 2016 instituted for the offence under Section(s) 302/34, 120-B Indian Penal Code.

It is alleged that there was dispute with regard to *Jalebi* tree between the informant and the accused persons. The informant had seen these petitioners and other accused persons talking in the evening but did not pay attention. It is further alleged that sons of the informant went to his father, who was looking after Patua field and saw in torch light petitioner Nos. 2 and 4 along with other accused persons running away from near



his father and husband of the informant was brought to house but by that time he was dead.

It has been submitted on behalf of the petitioners that they have been falsely implicated in this case due to land dispute and mere suspicion has been raised against the petitioners.

Learned APP has pointed out that sons of the informant in their statement in para 6 of the case diary have specifically taken name of petitioner Nos.2 and 4, who were found running from the place of occurrence. Similar statement has been made by the brother of the deceased in para 7 of the case diary. The informant has also supported the case in para 5 of the case diary. Similar facts appear from the impugned order of the learned Additional Sessions Judge.

In such circumstances, this Court is not inclined to extend privilege of anticipatory bail to the petitioner Nos.2 (Sakib @ Md. Sakib) and 4. (Md. Istiyqaue).

Accordingly, their prayer for anticipatory bail is rejected.

They 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. 1, 3 and 5 are concerned, there is no specific allegation of overt act against them. Accordingly, their prayer for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner Nos.1, 3 and 5, named above, within six weeks from today in connection with Kasba P.S. Case No.109 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 Chief Judicial Magistrate, Purnea, subject to the conditions as laid down under Section 438(2) Cr. P. C.

(Sanjay Priya, J)

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