

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44884 of 2017

Arising Out of PS.Case No. -33 Year- 2016 Thana -GOPALPUR District- GOPALGANJ

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1. Sajma Khatoon, wife of Bhola Mian,
2. Shakila Khatoon, wife of Tahir Mian @ Tahid Mian,
3. Shabnam Khatoon, wife of Raj Mohammad,
4. Khushbun Khatoon, wife of Jalaluddin Mian,
5. Bhola Mian, son of Feku Mian,
6. Raj Mohammad Mian @ Raj Mohammad Ansari @ Raj Mohammad, son of Feku Mian
7. Raees Mian @ Raees Ansari, son of Feku Mian,
8. Jalaluddin Ansari @ Jalaluddin Mian, S/o Feku Mian, All resident of Village- Paharpur, Police Station- Gopalpur, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Buxi S.R.P. Sinha, Sr. advocate
Mr. Zeyaul Hoda

For the State : Mr. Sri Jai Narain Thakur, APP

For the informant : Mr. Lokesh Kumar Singh, advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

4 13-11-2017

Heard both sides.

The petitioners apprehend their arrest in Gopalpur P.S. case No. 33 of 2016 under Section 302/34 of the Indian Penal Code.

The informant, wife of the deceased, alleged that Sajma Khatoon and Bhola Mian entered into verbal altercation on account of land dispute. Thereafter, the accused persons assaulted Shahid Mian, husband of informant, and Shahid Mian died on



17.04.2016, during the course of treatment.

The learned senior counsel for the petitioners submits that the informant named as many as eight persons in the FIR but did not make any specific allegation against any of the petitioners. The informant made omnibus and general allegation of assault against all the family members. There is counter version being Gopalpur P.S. case No. 31 of 2016 registered on 12.04.2016. The informant made her statement after one week of the occurrence on 17.04.2016 when the husband of informant died. No apparent injury was found on the person of deceased. The informant has disclosed in her further statement that her husband was being treated for abdominal disease from before but he felt pain in abdomen and he was operated. He died on account of heart attack during the course of operation. It is further submitted that out of eight petitioners four are ladies.

On the other hand the learned A.P.P. and the learned counsel for the informant vehemently opposed the prayer for anticipatory bail and submitted that petitioners are alleged to have assaulted the deceased. There was perforation in the intestine of the deceased on account of assault and for that the deceased was operated but septicemia developed and the deceased died.

It appears that there is a case and counter case. The



informant lodged the case after one week after the occurrence, after death of her husband, but she did not make any specific allegation of assault against the petitioners. Many of the witnesses have disclosed that there was scuffle among both sides in which the deceased fell down and got internal injury in his abdomen on account of which operation was done and septicemia developed.

Considering the facts aforesaid and the nature of allegation made against the petitioners and the fact that no apparent injury was found on the person of deceased and no specific allegation of assault was made against the petitioners, the petitioners, above named, in the event of their arrest or surrender before the learned 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) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-XI, Gopalganj in connection with Gopalpur P.S. case No. 33 of 2016, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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