

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29930 of 2017

Arising Out of PS.Case No. -496 Year- 2016 Thana -PHULWARI District- PATNA

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1. Anand Kumar, aged about 61 Years, Son of Rameshwar Sharma,
 2. Santosh Kumar, @ Guddu, aged about 42 Years, Both S/o Rameshwar Sharma , Resident of Village- Hulaschak, P.S.- Phulwarisharif, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Advocate.

For the Opposite Party/s : Mr. Shyameshwar Dayal, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

6 11-01-2018 Heard learned counsel for the petitioners and the State.

The petitioners apprehend their arrest in **Phulwarisharif P.S. Case No. 496 of 2016** instituted for the offence under Sections 306/34 of the Indian Penal Code.

Learned counsel for the petitioners has submitted that there is property dispute between Ajay Kumar and husband of the deceased namely Pramod Kumar and others including the petitioners. Partition suit No. 124 of 2017 is pending between the parties. It has further been submitted that the informant who is father of the deceased is not an eye witness, but in the written report, it is mentioned that the informant was informed on



telephone by Ajay Kumar about the occurrence.

In the written report it is alleged that petitioner No. 1 caught both the hands of the deceased and petitioner No. 2 pressed the neck on account of which, she died. It is also alleged in the written report that petitioners and other accused persons assaulted the daughter of the informant (since deceased) with lathi rod etc. The allegation against petitioner No. 2 is that he assaulted on the head of the daughter of the informant (since deceased) with rod but when she did not die, co-accused Ankit Kumar caught both her legs and Anand Kumar (petitioner No. 1) caught both hands whereas Santosh Kumar (petitioner No. 2) pressed her neck, on account of which, she died.

Learned counsel for the petitioners has submitted that due to family dispute, deceased has died on account of consuming Celphos tablet for which earlier the daughter of the deceased namely, Rimpi Kumari has filed U.D. Case on 13.08.2016 which has been enclosed as Annexure-2, stating therein that her mother had consumed poison on account of domestic dispute.

The post mortem report has been enclosed as Annexure-4 wherein the Doctor has found no injury on the head of the deceased and various viscerae has been preserved.

The FSL report has been received which has been



enclosed as Annexure-5 to the supplementary affidavit wherein it is mentioned that Aluminium Phosphide was detected in the contents of glass jar contained some dark brown fluid.

Learned counsel for the informant has appeared and submitted that in paragraphs 24 and 25 of the case diary it has come that the petitioners have assaulted the daughter of the informant (deceased) due to land dispute.

From the U.D. case it appears that it was lodged on 13.8.2016 i.e. on the same day of the alleged occurrence and the instant case has been lodged after delay of 18 days i.e. on 1.9.2016. As per FSL report, the death has been caused due to consuming Celphos tablet and no any strangulation injury was found on the person of the deceased.

Considering the facts and circumstances of the case, prayer for anticipatory bail of the petitioners is allowed. In the event of surrender/arrest of the petitioners, named above, within six weeks from today, in connection with **Phulwarisharif P.S. Case No. 496 of 2016**, they shall be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of Smt. Shema Eram **learned Judicial Magistrate, 1st Class, Patna**, subject to the conditions as laid down under Section 438 (2) Cr.



P.C. with further conditions (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioners shall cooperate in the trial and shall be present on each and every date fixed by the court and absence on two consecutive dates without proper and reasonable reason will automatically cancel bail bond of the petitioners and (3) if petitioners tamper with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioners.

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(Sanjay Priya, J)

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