

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.55099 of 2017

Arising Out of PS.Case No. -153 Year- 2017 Thana -TAJPUR District- SAMASTIPUR

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1. Satya Prakash Kushwaha, son of Ram Naresh Kushwaha,
2. Ram Naresh Kushwaha, son of Late Rajendra Mahto @ Yogendra Mahto, Both are resident of Village- Chakle Waini, P.S.- Waini O.P. District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioners : Mr. Ajay Kumar Thakur, Advocate.
Mr. Nilesh Kumar, Advocate.

For the Opposite Party : Mr. Surendra Kumar, APP.

For the Informant : Mr. Dharmendra Jha,

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

5 11-01-2018 Heard the learned counsels for the petitioner, the informant and the State.

The petitioners seek bail in connection with Tajpur (Waini) P.S. Case No. 153 of 2017 dated 22.05.2017 instituted for the offences under Sections 147, 149, 341, 323, 447, 307 and 302 of the Indian Penal Code.

The informant, who is the mother of the deceased has alleged in the FIR that on 16.05.2017, the sister-in-law of the petitioner no. 1 threw a mug of water on the deceased for fun. The deceased is thereafter said to have caught hold of the sister-in-law of the petitioner no. 1 but that was also for sheer fun. However, this was not liked by petitioner no. 1 and the deceased was chased



by him. The informant has further stated that thereafter the deceased went to Samastipur where he pulls rickshaw. On 20.05.2017 while the deceased was coming home after meeting his sister Babita Devi, the petitioner no. 1 is said to have caught hold of the deceased and confined him in a room. It has also been alleged that with the help of petitioner no. 2 who is the father of petitioner no. 1 and others, the deceased was assaulted badly. The deceased appears to have come back home on the same day i.e. 20.05.2017 whereafter he was treated by the local doctor. When the situation did not improve, the doctors referred him to Samastipur on 21.05.2017. However, the informant and others decided to take the deceased to Darbhanga on 22.05.2017 when on way the deceased died.

Mr. Ajay Kumar Thakur, the learned advocate has submitted that if the fardbeyan statement of the informant is scrutinized properly, it would appear that the deceased had come back home on 20.05.2017 only. If the deceased had been assaulted badly by the petitioners and others, a report should have been lodged against them either on 20th or 21st of May, 2017. No doubt, the first concern of the family members is to accord treatment to the injured but then in case of a brutal assault, the matter ought to have been reported to the police.



From the post-mortem report, it appears that the deceased had suffered injuries on his person in the nature of bruises and abrasions but there has been a perforation of the small gut, which perhaps could be because of the injuries suffered by him. The death appears to have taken place because of the fecal matter and water entering the peritoneal cavity.

Learned counsel for the petitioner has submitted that the informant has not clearly disclosed as to who stated about the occurrence to her or to others. She has nowhere, either in the FIR or in the further statement, has stated that such events were described before her by the deceased. Learned counsel for the petitioners has also therefore submitted that merely because there was some occurrence on 16.05.2017 in which the petitioner no. 1 was involved that a suspicion has been raised on the petitioners of killing the deceased. A further suggestion has been given by the learned counsel for the petitioner that the deceased, who as a rickshaw puller might have had a fall leading to his death. The aforesaid suggestion is on the basis of the nature of ante-mortem injuries suffered by the deceased which are in the nature of bruises and abrasions which, in fact, belie the statement of the informant that the deceased was brutally assaulted by many persons.

The petitioners are in custody since 23.05.2017 and



do not bear any criminal antecedent.

For the facts stated above, the petitioners above named are directed to be released on bail on their furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-1st, Samastpur in connection with Tajpur (Waini) P.S. Case No. 153 of 2017.

(Ashutosh Kumar, J)

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