

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53773 of 2018

Arising Out of PS. Case No.-61 Year-2018 Thana- BAJPATTI District- Sitamarhi

-
1. Jitan Mukhiya, Son of Ram Hyrday Mukhiya,
 2. Shushil Mukhiya, Son of Jitan Mukhiya,
 3. Lalu Mukhiya, Son of Jitan Mukhiya,
 4. Sukheshwar Mukhiya @ Sukeswar Mukhia, Son of Jitan Mukhiya,
 5. Mandeep Mukhiya @ Mandeep Kumar, Son of Jitan Mukhiya,
 6. Kanti Devi, Wife of Lalu Mukhiya,
 7. Babita Devi, Wief of Shushil Mukhiya, All R/o Village- Bhikha Tola, P.S.- Bajpatti, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha
For the Opposite Party/s : Mr. Smt. Sharda Kumari

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 04-10-2018 Counsel for the petitioner seeks permission of the Court to withdraw this application with regard to petitioner no 1 as he had been taken into judicial custody 10 days back.

Permission is accorded.

The application is dismissed as withdrawn with regard to petitioner no. 1.

Heard learned counsel for the petitioners and learned APP for the State.

The petitioner nos. 2 to 7 are apprehending their arrest in a case registered under Sections 147, 148, 149 and 302 of the Indian Penal Code.



The prosecution case, in short, is that in the backdrop of dispute over partition, a scuffle took place in the family among the brothers in which the husband of the intervened and sustained injury who later succumbed to the injury.

It has been submitted on behalf of the petitioner nos. 2 to 7 that they have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner nos. 2 to 7. Petitioner nos. 6 and 7 are ladies. Due to dispute over partition of the property, hot exchange has taken place between the parties and as the deceased had interfered to pacify the matter, in a spur of moment, it is alleged that the accused persons assaulted him with bamboo. There is no premeditation of mind nor there was any intention to commit the murder of the deceased. It is a case at best for an offence under Section 304 IPC. From perusal of the post-mortem report, it is evident that there is only one external injury on the head. The allegations made in the F.I.R. do not find support from the post mortem report. Petitioner no. 7 is in a family way as she is pregnant.

On behalf of the State, it is submitted that the petitioners are named in the F.I.R./complaint case.

Considering the aforesaid facts and circumstances,



let the petitioner nos. 2 to 7, above named, in the event of arrest/surrender before the learned court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Pupri at Sitamarhi in connection with Bajpatti P.S. Case No. 61 of 2018, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

Pankaj/-

U		T	
---	--	---	--

