

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.63922 of 2018

Arising Out of PS. Case No.-78 Year-2018 Thana- JALE District- Darbhanga

- =====
1. Dasrath Mahto Son of Amiri Mahto
 2. Vijay Kumar@ Vijay Mahto Son of Tetar Mahto Both are Resident of Village- Radhi, P.S. Jalley, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Iqbal Asif Niazi, Adv
For the Opposite Party/s : Mr. Sri Ashok Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 13-12-2018 The petitioners seek bail in anticipation of their arrest in connection with Jalley P.S. Case No. 78 of 2018 dated 27.05.2018 instituted for the offences under Sections 147, 148, 149, 341, 342, 323, 325, 307, 302 of the Indian Penal Code.

The prosecution version indicates that some children of the locality threw bricks on the brother of the informant for the purposes of teasing him. However, that enraged the brother of the informant who started abusing. This was not accepted by the local persons and the petitioners and others surrounded him and thereafter assaulted him by fists and slaps. The deceased succumbed to



the injuries.

Mr. Iqbal Ashif Niazi, learned counsel for the petitioners has drawn the attention of this Court to the injury report of the deceased which would reflect that the injuries were not grievous and the death ensued because of the weak physique of the deceased. He has further submitted that one of the female accused persons of this case has been granted anticipatory bail. Lastly, it has been submitted that there was no intention to kill the deceased and the allegation of assault is general and omnibus.

In support of the *bona fides* of the petitioners, learned counsel has further stressed the point that petitioners do not have any criminal antecedents.

Whatever may be the nature of injury, the manner in which a young boy with a weak physical constitution was assaulted by group of people of the village and specially under circumstances that he, in the first instance was teased which enraged him for sometime, I am not inclined to grant anticipatory bail to the petitioners.

However, if the petitioners surrender before the



Court below within a period of four weeks from today and pray for regular bail, learned Court below shall take into account the aforesaid facts viz. lack of intention of killing the deceased, general and omnibus allegation against all the accused persons and the nature of injuries and shall pass orders without being prejudiced by the fact that the anticipatory bail petition of the petitioners has not been entertained by this Court.

The petition is dismissed with the aforesaid observation.

(Ashutosh Kumar, J)

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