

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8764 of 2018

Arising Out of PS.Case No. -341 Year- 2016 Thana -ARARIA District- ARRARIA

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1. Gufran
2. Md. Rizwan @ Rizwan
3. Rahman All Sons of Sahabuddin
4. Baharuddin Son of Liyakat
5. Quddus @ Md. Quddus Son of late Kamruddin
6. Bibi Hazara Wife of Sahabuddin All Residents of Village- Rampur
Mohanpur, Ward No. 11, P.S. - Araria, District- Araria.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Sharma

For the Opposite Party/s : Mr. Manoj Kumar

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2. 20-02-2018

Heard learned counsel for the petitioners and

learned Additional Public Prosecutor for the State.

The petitioners apprehend their arrest in relation to Araria (Bairgachhi) P.S. Case No. 341/2016 registered under Sections 147/148/149/341/323/307/34 of the Indian Penal Code, pending in the court of learned Chief Judicial Magistrate, Araria.

Learned counsel for the petitioners submits that these petitioners along with three other accused are said to have participated in the alleged occurrence in which mother of the informant died. Learned counsel however submits that in the F.I.R. there are general and omnibus



allegations against all the accused persons. The petitioners and informant both are own *Gotias/pattidars* and in fact the dispute had arisen only in respect of a petty issue of constructing a wall in the courtyard. Learned counsel further submits that one of the accused namely, Sahabuddin (accused no. 1) has already faced trial and has been acquitted by the learned trial court. A copy of the judgment of the learned trial court in the case of accused no. 1 namely, Sahabuddin has been brought on record to submit that in fact, in course of evidence, the witnesses have stated that the mother of the informant fell down on a bamboo lying in the courtyard in the residential house which caused a fatal injury resulting into her death.

Referring to paragraph 17 and 18 of the trial court's judgment, learned counsel submits that only one injury has been shown and no evidence could be brought on record in course of trial to prove the allegations as regards the cause of injury. It is further submitted that the petitioner no. 6 is a lady member of the family and hence no fruitful purpose will be served by sending her behind the bar.

On the other hand, learned counsel



representing the State submits that even though the accused no. 1 Md. Sahabuddin is said to have been acquitted in course of trial but fact remains that these petitioners have been declared absconder as they did not put their appearance and despite they having been charge-sheeted as absconder and thereafter the process issued against them by the trial court, they have chosen not to appear which would show their conduct and they cannot said to be a law abiding citizen.

Having considered the submissions made at the bar, considering the fact that these petitioners did not co-operate in course of investigation and even though were charge-sheeted showing them absconding and then the trial court exhausted all the procedures to obtain their appearance in course of trial but they did not appear, I am not inclined to grant anticipatory bail to these petitioners.

Accordingly, prayer for anticipatory bail of these petitioners is rejected.

At this stage, learned counsel representing the petitioners submits that the petitioners are ready and willing to surrender in the court below and seek regular bail after putting their appearance, it goes without saying



that if the petitioners surrender in the court below within a period of two weeks from today and pray for regular bail, the same shall be considered by the court below keeping in view the submissions of the petitioners which have been referred hereinabove particularly that one of the accused Md. Sahabuddin is said to have been acquitted in want of any absence, the court below shall consider the applications in accordance with law on the basis of the materials available on the record.

This application is, accordingly, dismissed.

(Rajeev Ranjan Prasad, J.)

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