

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11928 of 2019

Arising Out of PS. Case No.-258 Year-2013 Thana- BASANTPUR District- Siwan

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1. Mishri Prasad aged about 70 years, Gender-Male, son of Late Briksha Mahto @ Briksha Prasad
 2. Manoj Prasad @ Manoj Kumar aged about 35 years, Gender-Male, son of Mishri Prasad
 3. Gorakh Prasad aged about 55 years, Gender-Male, son of Briksha Mahto @ Briksha Prasad
 4. Umesh Prasad aged about 40 years, Gender-Male, son of Gauri Shankar Prasad @ Gauri Prasad
 5. Gauri Prasad @ Gauri Shankar Prasad aged about 60 years, Gender-Male, son of Late Asharfi Prasad
- All are resident of village – Kodar, P.S. - Basantpur, District – Siwan.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh
For the Opposite Party/s : Mr.Awadhesh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 07-03-2019 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

The petitioners are seeking anticipatory bail in connection with Basantpur P.S. Case No. 258/2013 registered under Sections 302, 34 of the Indian Penal Code.

Learned counsel for the petitioners submits that as per allegation in the F.I.R. Daroga Prasad and Dular Chand Prasad who happened to be the father and uncle of the informant were coming to his house from the market, and as soon as they



arrived near the house of the petitioner no. 1, the accused persons surrounded them and assaulted. Further allegation is that family members of the informant went there to rescue them but in the meantime accused persons began to assault Jagar Nath Prasad by means of Lathi and Danda who happens to be the grandfather of the informant. It is alleged that in course of treatment said Jagar Nath Prasad died. Learned counsel for the petitioners submits that there is a land dispute between the parties and because of that the petitioners have been falsely implicated, it is submitted that there is no specific allegation of assault against them.

The next contention of learned counsel for the petitioners is that during investigation accusation against the petitioners was not *prima facie* found proved by sufficient materials, therefore police submitted a final form, but differing with police final form, the learned Magistrate took cognizance of the offences under Section 302 read with 34 of the I.P.C. and issued summons against the petitioners. It is submitted that petitioners are not absconder as yet as only non-bailable warrant of arrest have been issued till date.

Learned A.P.P. for the State is present and has opposed the prayer for anticipatory bail of the petitioners.



Considering the facts and circumstances of the case and the submission wherein it appears that initially in course of investigation police did not find any material to support the allegation against the petitioners, in the event of their arrest/surrender before the court below within a period of four weeks, let the above-named petitioners be enlarged on bail furnishing bail bond of Rs. 15,000/- (Rupees Fifteen Thousand only) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Siwan, in connection with Basantpur P.S. Case No. 258/2013, subject to conditions prescribed under Section 438(2) of the Code of Criminal Procedure.

(Rajeev Ranjan Prasad, J)

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