

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45847 of 2019

Arising Out of PS. Case No.-77 Year-2019 Thana- BELA District- Sitamarhi

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1. MD. SERAJ RAIN,
 2. Amin Rain
 3. Meraj Rain @ Md. Meraj Rain
All sons of Malislim Rain
 4. Rubaida Khatoon, wife of Moslim Rain
 5. Moslim Rain, Son of Alimu dolin Rain
All Resident of Village-Hanuman Nagar, P.S.-Bela, District-Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prasun Sinha, Advocate
For the Opposite Party/s : Mr.Narsingh Tanti

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 16-11-2019 Mr. Prasun Singh, learned counsel appearing on behalf of the petitioners states that there is a typographical error in cause title of the application inasmuch as the petitioner No. 4 has been described as '*Rubida Khatoon*' in place of '*Rubaida Khatoon*'.

Let name of the petitioner No. 4 be corrected in course of the day.

Heard learned counsel for the parties.

This application for anticipatory bail arises out of Bela P.S. Case No. 77 of 2019, disclosing the offences under



Sections 147, 149, 341, 342, 323, 324, 379, 325 and 506 of the Indian Penal Code. Subsequently, Section 302 of the Indian Penal Code and Section 3/4 of the Witch Craft Practices Act was added.

The present First Information Report has been registered on the basis of written statement of the informant Elahi Rain, made on 3.4.2019 for the occurrence which had taken place on 30.03.2019. The informant is an accused in Bela P.S. Case No. 74 of 2019, which, apparently relates to the same occurrence, which had taken place on 30.03.2019 at 8:20-8:30 a.m. It is alleged in the FIR that the named accused persons had called the informant's daughter a 'witch' and when objected to, they did not only abuse the informant and his family members, but assaulted him and others variously. The mother of the informant is said to have sustained injuries and, subsequently, died.

Learned counsel appearing on behalf of the petitioners has submitted that filing of the present First Information Report is apparently a counter blast to the previous First Information Report registered by the petitioner No. 4 on 30.03.2019 in respect of the same occurrence. He submits that unexplained delay of nearly four days in filing of the First Information



Report itself, creates serious doubt over the prosecution version. He has also submitted that there is no specific overt act of assault against these petitioners leading to death of the deceased, mother of the informant, who was an old aged lady and the possibility that she might have died because of fall, cannot be ruled out as there is no injury of assault on her mentioned in the inquest report.

Learned Additional Public Prosecutor has not demonstrated to this Court from the case diary which is available, any specific role of these petitioners in commission of the offence.

Considering the facts and circumstances of the case as noted above, this application is allowed. Let the petitioners, above-named, in the event of their arrest/surrender within six weeks from today in the court below, be released on 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 Sub Divisional Judicial Magistrate, Sadar, Sitamarhi, in connection with Bela P.S. Case No.77 of 2019, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioners



shall present themselves before the Police/Court, as the case may be, as and when required and in the event of failure on their part to appear before the court on two consecutive occasions, their bail Bonds shall be liable to be cancelled.

(Chakradhari Sharan Singh, J)

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