

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.71243 of 2018

Arising Out of PS. Case No.-67 Year-2018 Thana- BHAPTIAHI District- Supaul

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1. Md. Muslim, Son of Late Usman
 2. Md. Muzrul, Son of Late Usman
 3. Bibi Saiera Khatoon, Wife of Md. Islam, All 1 to 3 Resident of Village-Jhilladumri, P.S.- Bhatpiyahi, District- Supaul.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arun Kumar Jha

For the Opposite Party/s : Mr.Sri Mithilesh Kumar Khare

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 09-01-2019 The petitioners seek bail in anticipation of their arrest in connection with Bhaptiyahi P.S. Case No. 67 of 2018 dated 19.06.2018 instituted for the offences under Sections 302/34, 120(B) of the Indian Penal Code.

The informant has alleged that his brother was called by petitioner No. 1 at his house whereafter all the accused persons assaulted him. It has been specifically alleged that co-accused Md. Farookh caught hold of him whereas Md. Zubair pierced a pointed weapon through and through the chest of the brother of the informant who died instantaneously. The petitioner No. 1 is also alleged to have assaulted the deceased by means of *Farsa*.



The learned counsel for the petitioners has submitted that there is a land dispute which stands admitted in the F.I.R. The allegation of assault and catching hold is attributed to Md. Farookh and Md. Zubair respectively. So far as petitioner Nos. 2 and 3 are concerned, there is no allegation against them whatsoever in the F.I.R or in the investigation papers. The petitioner No. 1 is only alleged to have sent his son to call the brother (deceased) of the informant. The allegation of assault by petitioner No. 1 by *Farsa* is not borne out by the postmortem report.

However, considering the fact that the process under Section 82 and 83 Cr.P.C. have been issued against the petitioners, I am not inclined to grant anticipatory bail to them.

In case the petitioners surrender before the Court below within a period of four weeks from today and pray for regular bail, the Court below shall take into account that there is absolutely no allegation against petitioner Nos. 2 and 3 and the allegation of assault by Md. Muslim (petitioner No. 1) is not supported by the injuries suffered by the deceased.



The Court shall not be prejudiced by the fact that the present anticipatory bail has been refused to be entertained.

The petition is disposed off with the aforesaid observations.

(Ashutosh Kumar, J)

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