

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10965 of 2020

Arising Out of PS. Case No.-15 Year-2019 Thana- SONBERSA District- Saharsa

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1. Md. Jabbar S/o Late Manohar Resident of Village- Haripur, P.S.- Sonbarsha Raj, Distt- Saharsa
 2. Md. Mustak S/o Md. Kalim @ Kalim Resident of Village- Haripur, P.S.- Sonbarsha Raj, Distt- Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad

For the Opposite Party/s : Mr. Dashrath Mehta

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 02-03-2020 Heard the learned counsel for the petitioners, the learned counsel for the informant and the learned APP.

The petitioners seek bail in Sonbarsa Raj P.S. case No. 15/2019 registered under Section 302, 34 of the Indian Penal Code.

The informant, mother of the deceased, named 15 persons, including the petitioners, Md. Jabbar and Md. Mustak, and alleged that all the accused persons came and after measurement of the land they started uprooting the pole but when her son objected for uprooting the pole all the accused persons took her son in the courtyard of Kaiyam @ Kiro. The informant and her son-in-law, Md. Imran, and other co-villagers



went inside the courtyard of Kaiyam @ Kiro. The informant further alleged that Md. Usman caught the son of informant. Md. Sarvar, Md. Mister and Md. Ashik repeatedly gave dagger blows on the body of her son and her son was crying. When the informant and her son-in-law went to save, Md. Sarvar gave dagger blow on the thigh of son-in-law of the informant. Son of the informant died on the spot.

The learned counsel for the petitioners submits that petitioners are, of course, named in the FIR but no specific allegation of assault is made against the petitioners. The informant altogether made 15 persons accused in the case but the informant, who claimed herself to be eye witness of the occurrence, made specific allegation against Md. Usman that he caught her son and on such Md. Sarvar, Md. Mister and Md. Ashik gave indiscriminate dagger blows on the body of her son resulting into his death.

The learned counsel for the informant as well as the learned APP submits that it is a cold blooded murder on account of land dispute. There is allegation against all the accused persons that they all dragged the son of informant inside the house of Kaiyam @ Kiro and Usman gave Dabia blow on the head of deceased. Thereafter, Md. Sarvar, Md. Mister and Md.



Ashik gave indiscriminate blow on the body of son of informant causing his death on the spot.

It appears that of course the petitioners are named in the FIR but no specific allegation of assault is made against the petitioners. There is specific allegation of assault against Md. Sarvar, Md. Mister and Md. Ashik. Similarly situated accused Raveena Khatoon, Md. Kaiyam @ Kiro, Md. Kalim and Md. Jahangir have already been granted bail by coordinate bench of this court vide order dated 15.07.2019 passed in Cr. Misc.No. 43342/2019.

Taking into consideration the facts that petitioners are not the assailants of the deceased and similarly situated accused persons have already been granted bail, the petitioners, above named are directed to be enlarged on bail on their furnishing bail bond of Rs. 10,000/- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-III, Saharsa in connection with Sonbarsa Raj P.S. case No. 15/2019.

(Prabhat Kumar Jha, J)

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