

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14928 of 2020

Arising Out of PS. Case No.-194 Year-2019 Thana- ADAPUR District- East Champaran

1. MUMTAZ HAWARI Son of Late Hefazat Hawari Resident of Village - Jamunbhar Tola Islampur, P.S.- Adapur, District - East Champaran.
2. Hasmuddin Hawari Son of Late Manjoor Hawari Resident of Village - Jamunbhar Tola Islampur, P.S.- Adapur, District - East Champaran.
3. Sazar Hawari Son of Zahir Hawari @ Jahir Miyan Resident of Village - Jamunbhar Tola Islampur, P.S.- Adapur, District - East Champaran.
4. Naeem Hawari @ Nayeem Hawari Son of Late Tahir Hawari Resident of Village - Jamunbhar Tola Islampur, P.S.- Adapur, District - East Champaran.
5. Samshul Hoda Hawari @ Shamshul Hoda Hawari Son of Ayaz Mian Resident of Village - Jamunbhar Tola Islampur, P.S.- Adapur, District - East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate
For the Opposite Party/s : Ms. Nirmala Kumari, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

5 14-12-2020 Heard learned counsel for the petitioners and learned counsel for the State through video conferencing.

The petitioners have filed the instant application for grant of anticipatory bail apprehending their arrest in connection with Adapur P.S. Case no. 194 of 2019 registered under sections 307, 341, 323, 324, 354, 504, 506, 379 and 34 of the Indian Penal Code to which section 302 of the Indian Penal Code was added subsequently.

As per allegation in the FIR, it is stated that the



accused persons came variously armed and started to assault the father of the informant who fell down injured. Santyaz Hawari struck with a farsa as a result of which he started to bleed from his head. The petitioner no. 1 struck the grand father of the informant which hit him on his eye and he sustained a cut injury. The petitioner no. 2 assaulted Taslima Khatoon while Niyaz Ali and the petitioner no. 3 struck Qaiser Hawari. It is stated that petitioner nos. 4 and 5 assaulted with farsa and rod hitting Salma Khatoon and Tahir Hawari.

It is submitted by learned counsel for the petitioners that the petitioners have been falsely implicated in the case. Along with the formal FIR, two written reports have been enclosed, one by the informant which speaks about the specific role attributed to different persons while the other report is by the informant's father which contains allegations which are general and omnibus in nature. It is submitted that the correct version of the occurrence has been given in the FIR being Adapur P.S. Case no. 193 of 2019 of which the petitioner no. 4 is the informant and the instant FIR is the counter case to the same. The petitioners side have also sustained serious injury and there has been a death on his side also. The petitioners have no criminal antecedent. So far as petitioner no. 1 is concerned, it is



submitted that while there is specific allegation on the petitioner no. 1 of having given a blow with a sharp cutting weapon causing injury on the eyes of the deceased, from perusal of the postmortem report it is submitted that neither any injury on the eyes of the deceased have been found nor the injury causing death is stated to have been caused by sharp cutting weapon. In the opinion of the doctor the cause of death was due to head injury by hard and blunt object.

The application for bail is opposed by learned APP for the State.

The case diary and the injury reports called for in the case have been received.

Having heard learned counsel for the parties and on going through the materials that has transpired in course of investigation, I find substance in the submission of learned counsel for petitioners that so far as the allegation on petitioner no. 2 is concerned, the same is of having given a farsa blow on Taslima Khatoon. The opinion with respect to the gravity of the injury is still reserved. So far as the petitioner no. 3 and Niyaz Ali are concerned, they are stated to have given a lathi blow on Qaiser Hawari. In the report of the Superintendent of Police contained in his letter no. 207/legal dated 2.11.2020



addressed to the Assistant Registrar of this Court, there is no mention about the said injured. So far as the allegations on petitioner nos. 4 and 5 are concerned, they are said to have assaulted Salma Khatoon and Tahir Hawari. It appears that Tahir Hawari has sustained simple injury and there is no mention of the nature of injury on Salma Khatoon. So far as the assault by petitioner no. 1 on Alimuddin is concerned, the postmortem report does not support the allegation as made in the FIR.

Thus, in view of the facts and circumstance of the case, the Court is inclined to enlarge the petitioners on anticipatory bail.

The petitioners are directed to surrender in the Court below within a period of eight weeks from today and in the event of their arrest or surrender in connection with Adapur P.S. Case no. 194 of 2019 they will be enlarged on bail on each of them furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M, Raxaul at Motihari subject to the conditions as laid down under section 438(2) of the Cr.P.C.

(Partha Sarthy, J)

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