

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72893 of 2019

Arising Out of PS. Case No.-410 Year-2019 Thana- BIKRAMGANJ District- Rohtas

1. MUNNA PASI @ MUNNA RAM Son of Khaderan Ram Resident of Village - Sikariyan, P.S.- Bikramganj, Distt.- Rohtas.
2. Santosh Pasi @ Santosh Ram Son of Khaderan Ram Resident of Village - Vashuganj, Sikariyan, P.S.- Bikramganj, Distt.- Rohtas.
3. Jai Prakash Kumar @ Om Prakash Sharma @ JAI PRAKASH SHARMA Son of Ganesh Sharma Resident of Village - Sikariyan, P.S.- Bikramganj, Distt.- Rohtas.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ambuj Nayan Chaubey, Adv.

Mr. Amit Kumar, Adv.

For the Opposite Party/s : Mr.Shailendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

3 16-03-2020 Heard learned Counsel for the petitioners, informant and learned APP for the State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 147, 148, 149, 323, 341, 324, 325, 307 and 34 of the Indian Penal Code. Subsequently, Section 302 of the I.P.C. was also added.

The prosecution case as per the written report of Pawan



Kumar submitted before the S.H.O., Bikramganj Police Station is to the effect that on 03.08.2019 at 10.00 P.M., the informant and his brother Pappu Kumar were irrigating their land, in the meantime, petitioner no.1, Munna Pasi came and took the brother of the informant along with him, but when the brother of the informant did not return by late night, the informant search for him and in course of search near Sikariya village, he heard the sound of groaning and saw the petitioners, co-accused, Chandan Pasi, Om Prakash Sharma wives of petitioner no.1 and petitioner no.2 along with 10 unknown co-accused variously armed assaulting the brother of the informant. When the informant protested then all the accused persons assaulted the informant also. However, the informant saved himself and informed the police. Subsequently, on arrival of the police at spot, the brother of the informant could be saved and on 07.08.2019, the brother of the informant died during course of treatment.

It is submitted by learned counsel for the petitioners that in fact the victim along with others were committing theft in the house of the petitioners and they received injuries while attempting to escape from the scene and he was ultimately handed over to the police for the same conduct, leading to



registration of Bikramganj P.S. Case No. 409 of 2019 on 04.08.2019 at 2.20 A.M. whereas the present FIR was registered on 04.08.2019 at 5.10 A.M. Even as per the informant, the alleged occurrence took place around at 10 P.M. on 03.08.2019 and after sometime, the informant came to know about the alleged occurrence and he also stated in the FIR that he informed the police and the police saved his brother and hence there was no occasion for the informant to lodge the present case after delay of about 15 hours of the alleged occurrence. It is further submitted that the victim died in the custody of the police and the injury report suggests that he received altogether six injuries, out of which five injuries have been found simple in nature. The accusation of assault by various arms is alleged to have been caused by 16-17 persons, but the same is not corroborated by medical opinion. It is further submitted that the family members of the petitioners, particularly the female members also received injuries in the alleged occurrence when the victim tried to outrage the modesty of the female members and other co-accused Shail Kumari Devi, wife of the petitioner No.1 and Phul Kumari, wife of petitioner No.2 have been granted anticipatory bail by a Co-ordinate bench of this Court vide order dated 19.12.2019, passed in Criminal Miscellaneous



No. 73623 of 2019. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

It is submitted by learned counsel for the informant and learned APP for the State after going through the case diary that the informant is the eye witness to the alleged occurrence and has admitted this fact that the present case was lodged subsequent to the FIR lodged by the petitioner's and the accusation of assault is not being corroborated by the medical opinion.

Considering the fact that the FIR lodged by the petitioners at earlier point of time and when the police arrived at the instance of the informant then there was no occasion for the informant's brother being arrested by the police coupled with statement made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent , let the above named petitioners be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned ADJ-XIII, Rohtas at Sasaram, in connection with Bikramganj P.S. Case No.410 of



2019, subject to the conditions as laid down under Section
438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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