

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(From The Official Chambers Via Video Conferencing)**

CRIMINAL MISCELLANEOUS No.14160 of 2021

Arising Out of PS. Case No.-103 Year-2020 Thana- GAMAHARIYA District- Madhepura

1. MD. IDRIS Son of Md. Ahmad Resident of Village- Babhani, P.S.- Gamharia, District- Madhepura.
2. Md. Asfaq @ Soma Son of Md. Idris Resident of Village- Babhani, P.S.- Gamharia, District- Madhepura.
3. Md. Zahir Son of Md. Idris Resident of Village- Babhani, P.S.- Gamharia, District- Madhepura.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Uday Chand Prasad, Adv.

For the Opposite Party/s : Mr. Mukeshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

2 11-01-2022 Learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard learned counsel for the petitioners as well as the learned APP for the State.

Learned counsel for the petitioners has submitted that the petitioner No. 3 has been arrested during pendency of this petition. As such, he wants to withdraw the petition on behalf of the petitioner No. 3.

Accordingly, the anticipatory bail petition on behalf of the petitioner No. 3 is dismissed as withdrawn.

The petitioners apprehend their arrest in connection with Gamhariya P.S. Case No. 103 of 2020, registered for the offences punishable under Sections 323, 324, 341, 147, 148, 149, 354,



504,506,302 of the Indian Penal Code.

As per allegation, the accused persons named in the FIR equipped with lathi, khanti and rod etc. started abusing the informant and her family members and when her husband Md. Mansoor Alam came there, petitioner No. 2 (Md. Asfaq @ Soma) inflicted rod blow on his head. The allegation against the petitioner No. 1 is that he ordered and exhorted the accused persons to kill the husband of the informant (Md. Mansoor Alam). The husband of the informant died in Private Life Care Hospital during treatment.

Learned counsel for the petitioner has submitted that the assault given on head of the deceased was subsequent but prior to the order given by the petitioner No. 1.

The specific allegation against the petitioner No. 2 is that he assaulted the deceased on his head whereas the petitioner No. 1 is order giver. As such, petitioner Nos. 1 and 2 are not entitled to the privilege of the anticipatory bail.

Accordingly, the anticipatory bail petition in respect of petitioner Nos. 1 and 2 is hereby rejected.

Office shall ensure that all defects are removed by the petitioners within the stipulated time provided in para-1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey , J)

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