

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35184 of 2022

Arising Out of PS. Case No.-255 Year-2021 Thana- RAJNAGAR District- Madhubani

1. MD MURTUJA S/o Md. Muslim Resident of Village- Mangarauni Shekh Toli, P.s.- Rajnagar, District- Madhubani.
2. Md. Mustafa S/o Md. Muslim Resident of Village- Mangarauni Shekh Toli, P.s.- Rajnagar, District- Madhubani.
3. Md. Asharaf S/o Md. Mustafa Resident of Village- Mangarauni Shekh Toli, P.s.- Rajnagar, District- Madhubani.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shailendra Kumar Jha, Advocate
For the Opposite Party/s	:	Mr. Bharat Lal, APP
For the Informant	:	Mr. Rajiv Ranjan Kumar Pandey, Advocate
		Mr. Kritya Nand Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 29-11-2022 Heard learned counsel for the petitioners, learned counsel for the informant and learned A.P.P. for the State.

The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 341, 323, 324, 325, 308, 379, 504, 506 and 34 of the Indian Penal Code.

Learned counsel for the petitioners submits that petitioners are persons with clean antecedent and the informant alleges that accused persons, including the petitioners, along with ten unknown surrounded him and started abusing him and on protest, Md. Mustafa tied towel around his neck and started rotating, thereafter Md. Mortaza assaulted by a hockey stick



causing injury on head, it is next alleged that Md. Jubair assaulted by butt of *kulhari* causing injury on left eye, thereafter Md. Ashraf assaulted Vasi by sword causing injury on his head.

Learned counsel for the petitioners submits that petitioners have been falsely implicated in the present case, it is next submitted that allegation of assault is specific but then against Md. Mustafa it is alleged that he tied towel around informant's neck and started rotating and thereafter Mortaza and Zubair assaulted him, it is further submitted that informant was admitted in the hospital but he died three months after the occurrence and the doctor recorded his opinion as death was due to cardio respiratory failure as a result of chronic kidney disease, learned counsel thus submits that even the injuries suffered by the informant were simple in nature though it was on vital part of the body. Learned counsel next submits that petitioners are not evading the law rather will cooperate in the investigation and will present themselves as and when required by the Investigating Officer of the case, it is also submitted that no doubt occurrence had taken place but then assault was from both sides and the proximate cause of informant's death was not the assault but renal failure with which he was suffering from before.



Learned A.P.P. for the State and learned counsel for the informant oppose the prayer for anticipatory bail of the petitioners but are not able to meet the submission of the learned counsel for the petitioners that the informant died three months after the occurrence on account of cardio respiratory failure as a result of chronic kidney disease.

Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Rajnagar P.S. Case No. 255 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

However, in the event, if the Investigating Officer of the case files an application before the learned trial court bringing to its notice that the petitioners despite giving assurance to this Court that they will cooperate in the investigation and will present themselves as and when required, are not cooperating in the investigation or are not appearing



when called, the learned trial court after giving an opportunity of hearing to the petitioners shall pass orders in accordance with law and will have the liberty to cancel the bail bonds of the petitioners.

The learned trial court is directed to send a copy of this order to the concerned Police Station.

(Satyavrat Verma, J)

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