

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36819 of 2022

Arising Out of PS. Case No.-183 Year-2020 Thana- SIDHWALIYA District- Gopalganj

1. Ashok Mahto, Son of Basudev Mahto.
 2. Jiut Mahto, Son Of Late Jamdar Mahto
Both R/O Village- Surahiya, P.S.- Shidhwalia, District- Gopalganj
- Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arjun Prasad, Advocate
For the Opposite Party/s : Mr. Harendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 26-09-2022 Heard learned counsel for the petitioner and the

learned APP for the State.

Let the defect(s) be removed within four weeks of the
complete start of the physical Court in normal course.

The petitioner is in judicial custody in connection
with Sidhwalia P.S. Case No.183 of 2020 instituted under
Sections 341, 323, 324, 325, 307, 379, 504, 506,34 of the Indian
Penal Code.

The prosecution case, in short, is that the informant
gave her written statement before the Officer-in-charge that on
19.08.2020, about 20-25 persons including the petitioner came
to her house with intention to kill her family members. Further
allegation is that Ashok Mahto, Dhiraj Kumar, Mukesh Mahto,
Jiut Mahto all armed with 'Khanti' in their hands started



indiscriminate assault to her husband and after that he fell down on the ground became unconscious. On seeing the occurrence, neighbours rushed to save, then they also assaulted to her, her son along with neighbours Naresh Mahto, Harendra Thakur. She was also deprived of her gold 'Mangalsutra'. Naresh Mahto sustained head injury and fractured his hand due to assault of Ashok Mahto, Dhiraj Mahto, Jiut Mahto and Mukesh Mahto. Indu Devi, Kajal Kumari, Punam Kumari, Mira Devi, Sohila Devi, Shila Kumari, Manjit Kumar and unknown persons assaulted to her family and neighbours by 'lathi' bamboo causing injury to them. In the meantime, Punam Kumari and Shohila Devi snatched her gold chain from her neck. Accordingly, the FIR has been lodged.

Learned counsel for the petitioner submits that there is case and counter case in the matter inasmuch as both sides have suffered injuries and as such considering the fact that they are agnates and some of the co-accused have been enlarged on bail, these petitioners also deserve bail.

Per contra, learned APP for the State submits that a bare perusal of the FIR and the allegations shows that these petitioners used '*Khanti*' causing grievous injury and ultimate death of deceased and thus they cannot be exonerated of the



charges merely because a there is counter case and Title Suit
pending between them.

Considering the allegation that has come up in the
FIR, so far as these petitioners are concerned, this Court for the
present is not inclined to grant him privilege of bail, which is
accordingly rejected.

(Rajiv Roy, J)

Prakash Narayan /-

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