

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50286 of 2022

Arising Out of PS. Case No.-170 Year-2022 Thana- KUSHESHWARASTHAN District-
Darbhanga

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1. RAM SAKAL MUKHIYA Son of Late Shivam Mukhiya R/V- Laxminiya, P.S- Kusheshwar Asthan (O.P Tilleshwar), Dist- Darbhanga
 2. Indu Kumar Mukhiya @ Indra Kumar Mukhiya Son of Ram Sakal Mukhiya R/V- Laxminiya, P.S- Kusheshwar Asthan (O.P Tilleshwar), Dist- Darbhanga
 3. Rakesh Mukhiya Son of Sudin Mukhiya R/V- Laxminiya, P.S- Kusheshwar Asthan (O.P Tilleshwar), Dist- Darbhanga
 4. Videsh Mukhiya Son of Late Nathuni Mukhiya R/V- Laxminiya, P.S- Kusheshwar Asthan (O.P Tilleshwar), Dist- Darbhanga
 5. Sudin Mukhiya Son of Late Nathuni Mukhiya R/V- Laxminiya, P.S- Kusheshwar Asthan (O.P Tilleshwar), Dist- Darbhanga
 6. Vipin Mukhiya Son of Shivam Mukhiya R/V- Laxminiya, P.S- Kusheshwar Asthan (O.P Tilleshwar), Dist- Darbhanga
 7. Sanjay Mukhiya Son of Brahmdev Mukhiya R/V- Laxminiya, P.S- Kusheshwar Asthan (O.P Tilleshwar), Dist- Darbhanga
 8. Ramesh Mukhiya Son of Brahmdev Mukhiya R/V- Laxminiya, P.S- Kusheshwar Asthan (O.P Tilleshwar), Dist- Darbhanga
 9. Pankaj Mukhiya Son of Videsh Mukhiya R/V- Laxminiya, P.S- Kusheshwar Asthan (O.P Tilleshwar), Dist- Darbhanga
 10. Prakash Mukhiya @ Jai Prakash Mukhiya Son of Raj Kumar Mukhiya R/V- Laxminiya, P.S- Kusheshwar Asthan (O.P Tilleshwar), Dist- Darbhanga
 11. Chandra Shekhar Mukhiya Son of Brahmdev Mukhiya R/V- Laxminiya, P.S- Kusheshwar Asthan (O.P Tilleshwar), Dist- Darbhanga
 12. Roushan Mukhiya Son of Sudin Mukhiya R/V- Laxminiya, P.S- Kusheshwar Asthan (O.P Tilleshwar), Dist- Darbhanga
 13. Ram kalesh Mukhiya Son of Shivan Mukhiya R/V- Laxminiya, P.S- Kusheshwar Asthan (O.P Tilleshwar), Dist- Darbhanga
 14. Raj Kumar Mukhiya Son of Garbhu Mukhiya R/V- Laxminiya, P.S- Kusheshwar Asthan (O.P Tilleshwar), Dist- Darbhanga
 15. Kapildev Mukhiya Son of Garbhu Mukhiya R/V- Laxminiya, P.S- Kusheshwar Asthan (O.P Tilleshwar), Dist- Darbhanga
 16. Ram Sakal Mukhiya Son of Kari Mukhiya R/V- Tetrahi, P.S- Bithan, Dist- Samastipur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s



Appearance :

For the Petitioner/s : Mrs. Vaishnavi Singh, Adv.
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 02-02-2023 Heard Mrs. Vaishnavi Singh, learned counsel for the petitioners and Mr. Jitendra Kumar Singh, learned APP for the State.

Pursuant to the last order dated 12.1.2023, a counter affidavit on behalf of the S.P., Samastipur has been filed.

The petitioners apprehend their arrest in connection with Kusheshwar Asthan (Tilkeshwar O.P.) P.S. Case No. 170 of 2022 instituted under Sections 147, 148, 149, 341, 323, 307, 302, 379, 504, 506 of the Indian Penal Code.

As per the allegation, host of accused persons came and assaulted the family members of the informant in which while the husband of the informant, Umesh Mukhiya died, Rajesh Kumar was referred to Darbhanga Medical College Hospital where he as well as the informant were treated. Accordingly, the FIR was lodged.

Mrs. Vaishnavi Singh, learned counsel for the petitioners submit that a bare perusal of the FIR would show that omnibus allegation have been made against all the petitioners. Further, although there is unfortunate death of one person, the inquest report shows that only superficial injury on



the knee was on the deceased and the second injury is on the head which although proved fatal, considering the allegation of indiscriminate assault by all the accused persons, no injury on the body puts a question mark on the allegations. In that backdrop, the petitioners having no criminal antecedents, they deserve bail.

So far as the petitioner No. 3, Rakesh Mukhiya is concerned, it is her submission that no corroborative injury was found as per the allegation made by the informant.

Per contra, learned APP on the other hand submits that so far as Rakesh Mukhiya, petitioner No. 3 is concerned, there is specific allegation that he assaulted the informant with iron rod causing head injury to her. He further submits that the police after investigation has found the case to be true.

Although, there is an unfortunate death of the husband of the informant, the omnibus allegations have been made against all the accused persons, save and except petitioner No. 3, Rakesh Mukhiya against whom the allegation is of having given iron rod blow to the informant. In that backdrop, so far as the petitioner No. 3, Rakesh Mukhiya is concerned, no relief can be granted to him and his anticipatory bail is rejected.



So far as the other accused persons namely, Ram Sakal Mukhiya, Indu Kumar Mukhiya, Videsh Mukhiya, Sudin Mukhiya, Vipin Mukhiya, Sanjay Mukhiya, Ramesh Mukhiya, Pankaj Mukhiya, Prakash Mukhiya @ Jai Prakash Mukhiya, Chandra Shekhar Mukhiya, Roushan Mukhiya, Ram Kalesh Mukhiya, Raj Kumar Mukhiya, Kapildev Mukhiya, Ram Sakal Mukhiya, petitioner Nos. 1 to 16 (except petitioner No. 3) are concerned, taking into account the fact that they do not have criminal antecedents, the inquest report does not show the allegation of indiscriminate assault, according to the learned counsel for the petitioner, the police has found the place of occurrence to be different from what has been alleged in the FIR, this Court is inclined to extend them privilege of anticipatory bail with conditions.

Let the petitioner Nos. 1 to 16 (except petitioner No. 3, Rakesh Mukhiya) namely, Ram Sakal Mukhiya, Indu Kumar Mukhiya, Videsh Mukhiya, Sudin Mukhiya, Vipin Mukhiya, Sanjay Mukhiya, Ramesh Mukhiya, Pankaj Mukhiya, Prakash Mukhiya @ Jai Prakash Mukhiya, Chandra Shekhar Mukhiya, Roushan Mukhiya, Ram Kalesh Mukhiya, Raj Kumar Mukhiya, Kapildev Mukhiya, Ram Sakal Mukhiya be released on bail, in the event of his arrest or surrender before the subordinate court



within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each in connection with Kusheshwar Asthan (Tilkeshwar O.P.) P.S. Case No. 170 of 2022 to the satisfaction of learned Sub-Divisional Judicial Magistrate, Biraul, District Darbhanga, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family member of the petitioners who shall provide official document to show his/her bona fide;

(ii) the petitioners shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial Court itself;

(iii) the petitioners shall co-operate in the investigation and make themselves available to the police as and when required;

(iv) the petitioners shall appear before the concerned police station every fortnight for next six months to mark their attendance;

(v) the petitioners shall in no way try to induce or promise or threaten the witnesses or tamper with the evidences,



failing which the State shall be at liberty to take steps for
cancellation of the bail bonds;

(vi) the petitioners shall desist from committing any
criminal offence again, failing which the State shall be at liberty
to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

Ajay Singh/-

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