

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66448 of 2023

Arising Out of PS. Case No.-180 Year-2023 Thana- PHULWARIYA District- Gopalganj

1. Mahabir Tiwari Son Of Late Nabab Tiwari Resident Of Village Sawnaha P.S Phulwariya Dist Gopalganj. At Present R/O Mohalla- Rajendra Nagar, P.S.- Gopalganj Town, Dist- Gopalganj
2. Indu Devi Wife Of Mahabir Tiwari Resident Of Village Sawnaha P.S Phulwariya Dist Gopalganj. At Present R/O Mohalla- Rajendra Nagar, P.S.- Gopalganj Town, Dist- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Singh, Advocate
For the Opposite Party/s : Mr. Umanath Mishra, APP

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

3 08-12-2023 Heard learned counsel for the petitioners and learned A.P.P. for the State duly assisted by learned counsel for the informant.

2. The petitioners apprehend their arrest in connection with Phulwariya P.S. Case No. 180 of 2023, instituted under Sections 304/34 of the Indian Penal Code.

3. As per the prosecution case, on the date of occurrence, father of the informant was sleeping in his house. In the meantime, petitioners along with other accused persons came at the door of the informant and started arguing with him due to land dispute and dashed the informant due to which he fell down. Having heard the hue and cry, when the father of the



informant came to save him, he was assaulted by fists on his chest due to which he fell down on the ground and started suffocating. Thereafter, father of the informant was taken to the hospital for treatment where he succumbed to death.

4. Learned counsel for the petitioners submits that deceased was own brother of petitioner no. 1. There was a land dispute between the parties due to which scuffle took place. Father of the informant came with *lathi* to assault petitioner no. 1, which was snatched by the informant. Thereafter, the informant tried to assault with lathi to petitioner no. 1 but the same hit his father. It is further submitted that petitioners are old persons and are not involved in the alleged crime. They have falsely been implicated in this case due to previous enmity with the informant. Petitioner no.1 has one criminal antecedent and petitioner no. 2 has no criminal antecedent. There is no specific allegation against petitioners.

5. Learned A.P.P. for the State assisted by learned counsel for the informant opposes the prayer for anticipatory bail.

6. Considering the facts and circumstances of the case and submission of learned counsel for the parties, in the event of arrest or surrender before the Court below within six



weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned concerned Court where the case is pending in connection with Phulwariya P.S. Case No. 180 of 2023, subject to the conditions laid down in Section 438 (2) of the Code of Criminal Procedure, 1973.

(Sunil Dutta Mishra, J)

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