

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33864 of 2024

Arising Out of PS. Case No.-107 Year-2023 Thana- SIKTI District- Araria

1. Motulam Chaitam @ Montolum Chaitom Son of Khekhu Chaitam @ Kekhu Chaitom Village -Yealiang, Sunpura Circle, PS -Jeko, District -Lohit, Arunachal Pradesh 792111 At Pre- 52 Batalion Ssb Jayprakash Nagar, Ps And Dist- Araria
2. Bablu Roy Son Late Jagdish Ch. Roy Resident of Village- Keshari Bari, Jamaldah, PS- Mathabhanga, Dist- Cooch Behar, West Bengal At Pre- 52 Batalion SSB Jayprakash Nagar, Ps And Dist- Araria
3. Aman Kumar Singh Son Of Balram Singh Resident Of Village- Khajuriya, PS- Muffasil, Dist- Bhojpur At Pre- 52 Batalion Ssb Jayprakash Nagar, Ps And Dist- Araria
4. Dipesh Suresh Koly @ Dipesh Suresh Koli Son of Suresh Keshav Koly Resident of Village- Anjale, Taluka Yawal, Ps- Yawal, Dist- Jalgaon, Mahrashtra At Pre- 52 Batalion Ssb Jayprakash Nagar, Ps And Dist- Araria
5. Ajay Kumar Das Son of Gajendra Prasad Das Resident of Village- Chhoti Bharatshila, Ps- Shambhuganj, Dist- Banka, Bihar At Pre- 52 Batalion Ssb Jayprakash Nagar, Ps And Dist- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Advocate
	:	Mr. Kumar Ravish, Advocate
	:	Mr. Sanjay Kumar Sharma, Advocate
	:	Ms. Siddhi Aashana, Advocate
For the State	:	Mr. Nawal Kishore Pd, APP
For the informant	:	Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 325-09-2024
1. Heard learned Senior Counsel for the petitioners, learned Counsel for the informant and learned Additional Public Prosecutor for the State.

2. This application, for grant of anticipatory bail, arises out of Sikti Police Station Case No. 107 of 2023, dated



14.04.2023, disclosing offences under Sections 302/34 of the Indian Penal Code.

3. The informant, namely, Bibi Sahmira Khatoon, submitted a written application, on 14.04.2023, alleging therein that on 10.04.2023, at about 21:00 hours, the informant's husband went to buy curd towards the border area, but he did not return, after which search was made. After sometime, the informant came to know that the SSB Personnel have apprehended her husband with motorcycle and brought him to Camp. When the informant went to the Camp, she did not receive any information and when the brother-in-law (Bhaisur) of the informant went to Araria in search of her husband, the SSB Personnel assaulted him with slaps and fists. She further received information that her husband has succumbed to the injuries on 13.04.2023 caused by the SSB personnel.
4. Learned Senior Counsel for the petitioners submit that the petitioners are Officers and Constables of the SSB and during the course of their official duty, they apprehended the deceased (husband of the informant) on 10.04.2023 in drunken condition and also seized the motorcycle, mobile phone etc. Sikti P.S. Case No. 99 of 2023 was instituted



by the petitioners under Sections 341/323/353/186 of the Indian Penal Code read with Sections 37 and 45 of Bihar Prohibition and Excise Act against the deceased. After arrest of the deceased, the SSB team took him to the Primary Health Centre, Sikti, Araria on 10.04.2023 at 04:45 AM, where the deceased was examined by the doctor and found that he was in drunken condition, having alcohol level 162.8 mg/100ml etc. No serious injury was found on the body of the deceased by the doctor. Thereafter the petitioners handed over the deceased to S.I., Sikti Police Station, Araria on 10.04.2023 at 06:10 AM, which would also be evident from the production -cum- seizure list, dated 10.04.2023, prepared by the police officials. The police officials thereafter produced the deceased on 10.04.2023 before the learned Exclusive Special Judge Excise II, Araria and the Special Judge remanded the deceased to the judicial custody in presence of his lawyer who has signed in the margin of remand order, dated 10.04.2023. The Special Judge, after having gone through the production letter, arrest memo, medical reports and the seizure lists and being satisfied that no injury was caused to him,



remanded him to judicial custody on 10.04.2023. The remand order suggests that the deceased was not subjected to any torture and misbehavior at the hands of the SSB Personnel. The Police, before production of the deceased for remand, got him examined in Primary Health Centre, Sikti again on 10.04.2023 at 01:56 PM and from the perusal of the doctor's report, it is clear that the deceased was physically, mentally and medically fit and did not complain about any torture to him. It was after the remand of the deceased in judicial custody that he died during the course of treatment in the hospital. On the date of death. i.e. on 13.04.2023, the deceased was not in the custody of the petitioners or the police officials; rather, he was in custody of the jail authorities. After handing over the deceased to the police officials, the petitioners did not have any connection with the deceased.

5. On the other hand, learned counsel for the State, referring to the case diary, submits that it is true that the deceased was admitted in the hospital by the jail authorities, however, during course of investigation some of the witnesses have said that the deceased was being assaulted by the SSB Personnel on the date he was arrested by



them.

- 6. Regards being had to the submissions made on behalf of the parties and taking into consideration the materials available on record, including the arrest memo, medical reports, remand order, I am inclined to grant the petitioners privilege of anticipatory bail.
- 7. This application is, accordingly, allowed.
- 8. Let the petitioners, above named, in the event of their arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Araria, in connection with Sikti Police Station Case No. 107 of 2023, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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