

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34227 of 2014

Arising Out of PS.Case No. -81 Year- 2011 Thana -SALKHUA District- SAHARSA

- =====
1. Md. Salauddin Son of Md Ibrahim
 2. Alam @ Ahmad Alam Son of Late Salamat @ Chamru Both residents of Village Puraini
 3. Md Mobin @ Mobin Son of Late Md Kadir
 4. Md Sarik @ Sarik Son of Md Arif Both residents of Village Mubarakpur, P.S. Salkhua, District Saharsa

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Kishna Pd. Singh, Sr. Advocate
Mr. Bhaskar Shankar, Advocate

For the Opposite Party : APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 16-02-2015 Heard both sides.

Petitioners, namely, Md. Salauddin, Alam @ Ahmad Alam, Md. Mobin @ Mobin and Md. Sarik @ Sarik, apprehend their arrest in Salkhua P.S. Case no. 81 of 2011, registered for the offences punishable under Section 307 and other sections of the Indian Penal Code and later on, section 302 of the IPC was added.

The informant Md. Shahid named the petitioners along with other accused persons and made allegations against them that during Barat, quarrel took place. The informant made a specific allegation that accused Md. Rabb alias Rabban, Nihal, Md. Alam and Md. Sharik were crying to kill Barat Party. Ashul Rabb alias Rabban is alleged to have assaulted Ashul Kadir on his head

with iron rod as a result of which Ashul Kadir fell down and became unconscious.

Learned counsel for the petitioners submits that there is specific allegation against Md. Rabb that he assaulted the deceased with iron rod on his head and injury was also found on his head. There is no specific allegation of assault against the petitioners. The police after investigation submitted final form finding the case false against the petitioners but the learned Chief Judicial Magistrate after perusing the case diary took cognizance under Section 304 and other sections of the Indian Penal Code against the accused persons including the petitioners.

On the other hand, Mr. Shiv Shankar Prasad Sharm, learned counsel for the informant, while opposing the prayer for anticipatory bail, submits that the case is of 2011 but at the same time, admittedly there is no allegation of assault on the deceased against the petitioners.

Considering the fact that the petitioners are not alleged to have assaulted the deceased and police after investigation submitted final form against the petitioners but the learned Chief Judicial Magistrate took cognizance, petitioners above-named, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a

copy of this order, are directed to be enlarged on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Saharsa in connection with Salkhua P.S. Case No.81 of 2011, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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