

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25699 of 2016

Arising Out of PS.Case No. -240 Year- 2013 Thana -NAUTAN District-
WESTCHAMPARAN(BETTIAH)

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1. Chandrika Sah Son of late Bachchan Sah
2. Nagendra Sah Son of Chandrika Sah
3. mahadev Sah Son of Chandrika sah
4. Sunil Sah Son of chandrika Sah
5. Surendra Sah Son of Chandrika Sah
6. Raghu Sah Son of Amerika Sah
7. Arjun Sah Son of Amerika Sah
8. Pradeep Sah Son of Amerika Sah All Residents of Village- Dabariya
Makari Tola, PS Nautan District West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma
For the Opposite Party/s : Mr.(Dr.) Mrityunjay Kumar Gautam, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

4 18-08-2016

Heard both sides.

Petitioner nos. 1 and 2, namely, Chandrika Sah and Pradeep Sah have already been arrested and their anticipatory bail petition has been dismissed as withdrawn by order dated 28.07.2016.

The petitioner nos. 2 to 7 apprehend their arrest in connection with Nautan P.S. Case No. 240 of 2013 registered for the offence punishable under section 302 and other allied sections of the Indian Penal Code pending in the court of the learned Chief Judicial Magistrate, West Champaran at Bettiah.

The informant alleged that he named 12 persons including the petitioners and alleged that they all came and started constructing a house over his land. The father of the informant objected on which all the accused persons started assaulting the

father of the informant. Thereafter the informant took his father to the hospital for treatment. The informant brought his father to his house after treatment but in the evening his father died.

Mr. U. C. Verma, learned counsel for the petitioners submits that there is omnibus and general allegation against the petitioners and other accused persons. The I.O. submitted charge-sheet firstly against accused Amerika Sah and thereafter against three accused persons, namely, Khira Sah, Chhotelal Sah and Sanshodh Sah @ Santosh Sah under section 304/34 of the Indian Penal Code. The post mortem report shows that there is no external injury on the body of the deceased. The Viscera was kept reserved. The case of the petitioners is that the I.O. did not find the case true against the petitioners but the learned Chief Judicial Magistrate, took cognizance against the petitioners also.

The learned A.P.P. on the other hand vehemently opposed the prayer for grant of anticipatory bail and submitted that the case of the petitioners is the same and similar as that of two other accused persons, whose anticipatory bail petition has already been rejected by a Bench of this Court by order dated 25.06.2014 passed in Criminal Misc. No. 20478 of 2014. He further submits that the doctor who examined the father of the informant in P.H.C. referred him to M.J.K. Hospital, Bettiah but the informant brought his father to his house and the father of the informant died. The post mortem report also shows that the deceased got some internal injury as kidney, lungs, heart and other parts of his body were found congested.

Considering the fact that on the same and similar allegation the anticipatory bail petition of Chhotelal Sah and

another has been rejected by this Court and also the fact that the petitioner nos. 2 to 7 were also alleged to have assaulted the deceased, I am not inclined to grant the privilege of anticipatory bail to petitioner nos. 2 to 7. This application for anticipatory bail is, accordingly, rejected.

If the petitioners surrender and pray for regular bail, the learned court below shall consider the same on its own merit without being prejudiced by the order of this Court and also taking into consideration the fact that co-accused Amerika Sah has already been granted regular bail.

(Prabhat Kumar Jha, J)

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