

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23327 of 2016

Arising Out of PS.Case No. -109 Year- 2016 Thana -LAHERIASARAI District- DARBHANGA

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1. Amlesh Prasad Son of Late Yogendra Prasad, Resident of village-Tarwara, P.S.- Jamalpur, District- Darbhanga, working in I.C.U., Medicine Department, D.M.C.H., Laheriasarai, Darbhanga
 2. Sambhu Sah, son of Late Mangal Sah, resident of village- Dhoighat Nadikat Diwari, P.S.- Sadar, District- Darbhanga, Class- IV employee, D.M.C.H., Laheriasarai, Darbhanga
 3. Bindeshwar Prasad Yadav @ Bindeshwari Prasad Yadav, son of Late Ram Khelawan Yadav @ Late Khelawan Yadav, resident of village-Luxminia, P.S.- Jamalpur, District- Darbhanga, Class-IV employee, D.M.C.H., Laheriasarai, Darbhanga

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav, Advocate

For the Opposite Party/s : Mr. Sucheta Yadav(APP)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 05-08-2016 Heard learned counsel for the petitioners and the learned A.P.P. for the State.

Petitioners apprehend their arrest in connection with Laheriasarai P.S. Case No. 109 of 2016 registered for the offence punishable under Sections 304/34 of the Indian Penal Code.

The prosecution case, in brief, is that on 25.09.2015, petitioner no.1 Amlesh Prasad left his duty one hour before and petitioner nos. 2 and 3, Sambhu Sah and Bindeshwar Prasad Yadav @ Bindeshwari Prasad Yadav joined their duties

one hour late, as a result of which, three patients, namely, Rani Devi, Champa Devi and Shabnam Khatoon died due to lack of oxygen.

It has been submitted by the learned counsel for the petitioners that petitioners are innocent having committed no offence. It has been submitted that petitioners are Class-IV employees of the DMCH, Darbhanga and they were present on the alleged date of occurrence. It has further been submitted that the supply and administering oxygen on the patient is not their duty and it is the duty of the technicians and there are separate employees for the said work. It is submitted that oxygen is being administered to the patients through gas cylinder by attending Doctors and Nurses and petitioners have no concern with the said work as they are only Ward attendant and they follow the instructions of the attending Doctors and Nurses. It has further been submitted that even otherwise for dereliction of duty, petitioners have been placed under suspension and there is civil consequences if the allegations under the aforesaid sections are found true, as such, no case under Section 304 of the Indian Penal Code is made out against them.

However, learned A.P.P. for the State submits that petitioners are named in the First Information Report, hence,

opposes the prayer for bail.

Be that as it may, since the petitioners are Class-IV employees and are not involved in technical work, let the petitioners, named above, in the event of their arrest or surrender before the learned Court below within a period of eight weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rs. ten thousand only) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Darbhanga in connection with Laheriasarai P.S. Case No. 109 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Nilu Agrawal, J.)

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