

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41482 of 2017

Arising Out of PS.Case No. -34 Year- 2017 Thana -SRINAGAR District-
WESTCHAMPARAN(BETTIAH)

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1. Mohan Sah Son of Harihar Sah
2. Vijay Sah Son of Kanchan Sah Both Resident of Village- Bagahi
Baghambarpur, P.S. Shrinagar Pujaha District West Champaran (Bettiah).

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ramchandra Sahni

For the Opposite Party/s : Mr. Akshay Lal Pandit

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

5 15-11-2017 Heard learned counsel for the petitioners and learned
APP for the State.

Petitioners are languishing in judicial custody since
07.06.2017 in connection with Srinagar (Pujaha) P.S. Case No. 34
of 2017 for offences punishable under Sections 147, 148, 149,
341, 323, 324, 354-C, 447, 379, 387, 504, 506 of the Indian Penal
Code.

The prosecution case, as lodged by the informant, is
that while she was sitting along with her grand-mother Most.
Halkhori Devi, the petitioners along with other accused persons
entered into the house and started abusing and objected the
construction being made in the house. Allegation upon the



petitioner no. 1 is that he tried to outrage the modesty of the informant, who was a 16 year old girl and allegation upon petitioner no. 2 is that he assaulted Most. Halkhori Devi, on which she sustained fracture injury on the back and later on, she died during the course of treatment. They also snatched Rs. 10,000/- from the box.

It has been submitted by the learned counsel for the petitioners that they are innocent and there was a property dispute between both the parties for which civil suit is pending before the civil court. He submits that the allegations of hitting and fracture in the backbone of Most. Halkhori Devi has been found to be false, as per postmortem report, there was only a stitched wound injury on forearm. The date of occurrence is 03.03.2017. He submits that the said Most. Halkhori Devi was discharged from the hospital on 10.3.2017 and died on 15.03.2017. During course of investigation it was found that the said Most. Halkhori Devi, was 87 years old lady and the postmortem report suggests that death was caused due to anemia, Toxaemia and shock but could be precipitated due to above noted injury and that being an old lady, she died of natural death. He submits that charge-sheet has been submitted under Section 304 IPC and not under Section 302 IPC.



However, learned counsel for the informant opposes the prayer of bail stating therein that the said deceased had given her dying-declaration on 12.3.2017 stating therein that the petitioners had assaulted her and she sustained injury and thereafter died during the course of treatment.

Learned APP for the State also opposes the prayer for bail.

Considering the facts and circumstances and the materials on record, I am not inclined to grant privilege of bail to the petitioners and, accordingly, their prayer for regular bail stands rejected in connection with Srinagar (Pujaha) P.S. Case No. 34 of 2017 pending before learned Chief Judicial Magistrate, West Champaran, Bettiah.

However, the petitioners are at liberty to renew their prayer for bail after framing of charge.

(Nilu Agrawal, J)

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