

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.17526 of 2018

Arising Out of PS. Case No.-416 Year-2016 Thana- BIRAUL District- Darbhanga

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1. Santosh Chaudhary @ Kari Chaudhary, S/o Fanad Chaudhary,
2. Bhashkar Chaudhary @ Chharu Chaudhary S/o Anand Chaudhary,
Both R/o Village- Pokharam, P.S.- Biraul, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kr. Chaudhary Mr. Sameer Ranjan Mr. Akshansh Ankit
For the Opposite Party/s :		Mr. Shyameswar Dayal

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 25-04-2018 Heard learned counsel for the petitioners and learned
APP for the State.

Petitioners had earlier moved for bail in Cr. Misc. No.
27015 of 2017, which was rejected vide order dated 25.07.2017.

Petitioners are languishing in judicial custody since
30.03.2017 in connection with Biraul P.S. Case No. 416 of 2016
for offences punishable under Sections 307 and other allied
Sections of the Indian Penal Code and later on Section 302
I.P.C. has been added.

The prosecution case, as lodged by the informant, is
that while they were sleeping in the house at night, the
petitioners along with five other persons and 10-15 unknown



entered the house and assaulted them. Specific allegation is that Tuntun Chaudhary assaulted her deceased brother Daho Giri with *lathi* and *danda* while other family members were also assaulted by the co-accused.

It has been submitted by the learned counsel for the petitioners that they are innocent and because of personal enmity and land dispute between the parties they have been made accused. Brother of the informant Daho Giri died two months after the alleged occurrence and on the date of incident the deceased Daho Giri was examined in the Primary Health Centre and the injuries were found to be simple in nature, but in the inquest report opinion has been given that the cause of death was due to previous injury, which could not have been given by the Investigating Officer. He submits that postmortem report also suggests no external or internal injury, although, the date of occurrence is 10.12.2016, death occurred on 11.02.2017 and as such the petitioners could not be alleged to have caused assault which resulted in death of Daho Giri. He further submits that charges have already been framed and the petitioners undertake to cooperate in the trial.

However, learned APP for the State opposes the prayer for bail.



Considering the facts and circumstances and the materials on record, let petitioners, above named, be enlarged on bail on furnishing bail bonds of Rs.10,000/-(Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned 2nd Additional Sessions Judge at Benipur, Darbhanga, in connection with Biraul P.S. Case No. 416 of 2016, subject to the following conditions :

(i) One of the bailors would be a close relative of the petitioners having sufficient immovable property, who will file an affidavit stating his relationship with the petitioners.

(ii) Petitioners will appear before the learned court below during trial as and when required and failure to appear on two consecutive dates without assigning any reason will entail cancellation of their bail bonds.

(Nilu Agrawal, J)

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