

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35554 of 2018

Arising Out of PS. Case No.-185 Year-2017 Thana- ROSHANGAANJ District- Gaya

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1. Kaushal Kumar Son of Shiv Kumar Prasad
 2. Dev Kumar Prasad Son of Late Jagdish Prasad
 3. Nitish Kumar son of Dev Kumar Prasad Both are residents of village - Simrehat, P.S. Roushanganj, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Saxena
For the Opposite Party/s : Mr. Sri Jai Narain Thakur

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 31-07-2018 Heard learned counsel for the petitioners and learned APP for the State.

Petitioners apprehend their arrest in Roushanganj P.S. case no. 185 of 2017 instituted for the offence under Section(s) 302/34 of the Indian Penal Code.

It has been submitted that petitioner nos. 1 and 2, namely, Kaushal Kumar and Dev Kumar Prasad have already been arrested. Therefore, petition with respect to petitioner nos. 1 and 2 is dismissed as withdrawn.

In the written report, it is alleged that this petitioner including other accused persons assaulted the family members of the informant earlier, for which, a case has been lodged by the informant. It is further alleged that when informant returned to his house, he learnt that his father had been assaulted by the accused persons and he has



become unconscious. Thereafter, he was taken to Banke Bazar Hospital, where he was declared dead.

Learned counsel for the petitioner has submitted that in the postmortem report it is mentioned that the deceased died due to disease.

Case diary has been received. Learned APP after looking into the case diary submits that witnesses in paragraph nos. 40, 41 and 42 of the case diary have fully supported the case and have levelled specific allegation against this petitioner of assaulting the father of the informant with other accused persons. Later on, the condition of the father of the informant has deteriorated and he succumbed to the injuries. He further highlighted that postmortem report of the deceased is available in case diary wherein doctor has found four injuries on the person of the deceased and opined the cause of death due to spontaneous intracerebral hemorrhage and some viscera have been preserved. There is no any opinion of the doctor in the postmortem report that deceased died due to any disease, as submitted by learned counsel for the petitioner.

Therefore, this Court is not inclined to grant anticipatory bail to the petitioner No.3, namely, Nitish Kumar. Prayer for anticipatory bail of the petitioner No.3 stands rejected.

Petitioner No.3 may surrender before the Court below and make prayer for regular bail which shall be considered and disposed of on its own merit in accordance with law without being prejudiced



by the present order.

(Sanjay Priya, J)

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