

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25609 of 2018

Arising Out of PS.Case No. -259 Year- 2017 Thana -
SIRDALA District- NAWADA

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1. Rajender Chaudhary
2. Dilip Choudhary Both Sons of Late Munshi Choudhary,
Resident of Village-Ismailpur, P.S. Sirdalla, District-
Nawadah.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Rafi Ahmad

For the Opposite Party/s : Mr. Sri Nand Kumar

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 17-05-2018 Heard learned counsel for the petitioners, informant
and the State.

The petitioners seek bail in connection with Sirdalla
P.S. Case No. 259 of 2017 dated 14.10.2017 instituted for
the offences under Sections 147, 148, 149, 341, 307, 379,
302 of the Indian Penal Code.

From the F.I.R lodged by the son of the deceased, it
appears that on 14.10.2017, the petitioners and others came
to the land claimed by the informant and started pressurizing
the informant as well as his father(deceased) to have the
land measured or else they will start construction on the said
land. When this was protested by the informant then, on the
orders of one Lato Chaudhary, the petitioners and one



Kuldeep Chaudhary are said to have assaulted the informant, leading to injuries on his person. When his father (deceased) came to the rescue of his son, he too was assaulted by the petitioners and Kuldeep Chaudhary, as a result of which, he also fell down injured on the ground. During the course of treatment, the father of the informant died. Hence, the present F.I.R.

The learned counsel for the petitioners has submitted that an absolutely false and concocted case has been lodged against the petitioners and others. The petitioners were constructing a house over a plot of land belonging to them but in the meantime, the informant and others arrived and initiated a scuffle leading to skirmish.

It has further been submitted that one of the brothers of the informant assaulted the son of petitioner No. 1. However, the assault did not hit the son of the petitioner No. 1; rather it hit his own father leading to his death. The learned counsel for the petitioners, therefore submits that taking advantage of the aforesaid death of the father of the informant, a false case implicating all the members of the family of the petitioners has been lodged by the informant. A complaint case also has been lodged by the son of petitioner No. 1 against the informant and other members of the family which is still pending adjudication. It has also been submitted



that from the postmortem report of the deceased, it would appear that there was no injury on the head of the deceased and the death, perhaps was because of several other injuries in the nature of lacerated wound, abrasion, swelling and fracture of few rib bones.

The learned counsel appearing for the informant, however, has referred to the injury report of the deceased which *inter alia* reveals that there was stitched wound over the occipital region of the deceased.

Co-accused Kuldeep Chaudhary, who is alleged to have assaulted the informant and the deceased and has similar allegation against him as that of the petitioners, has been granted anticipatory bail by a Bench of this Court vide order dated 09.04.2018 passed in Cr. Misc. No. 16421 of 2018.

The petitioners are in custody since 18.10.2017 and 04.11.2017 respectively.

The learned counsel for the informant, while opposing the prayer for bail has further stated that the trial has begun and two prosecution witnesses have already been examined. He has also stated that there is every likelihood of the trial being concluded in near future and therefore the petitioners ought not to be granted bail till disposal of the case.

However, regard being had to the fact that similarly



situated co-accused has been granted anticipatory bail as also the fact that petitioners have remained in custody for more than six months, this Court is inclined to grant bail to them.

The petitioners, above named are directed to be released on bail on furnishing bail bonds of Rs. 10,000/-(ten thousand) each with sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge, V, Nawadah in connection with Sessions Trial No. 46 of 2018, arising out of Sirdalla P.S. Case No. 259 of 2017.

However, the petitioners shall, after being released from jail, participate in the trial proceedings and shall not absent themselves without there being any plausible reason or without seeking permission of the Trial Court.

In case they absent themselves from the trial proceedings for two consecutive occasions, the Trial Court shall proceed ahead for cancellation of bail of the petitioners.

(Ashutosh Kumar, J)

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