

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69244 of 2018

Arising Out of PS. Case No.-298 Year-2018 Thana- TURKAULIYA District- East
Champaran

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1. Omprakash Sah @ Chhotelal Sah, Son of Late Kailash Sah,
 2. Gudar Devi, Wife of Deonath Sah,
 3. Pramila Devi, Wife of Chhotelal Sah,
 4. Shashi Kumar, Son of Suresh Sah,
- All Residents of Village- Amwa Sanaiya, Police Station- Kotwa, District-
East Champaran at Motihari.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Sanjana

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

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 16-04-2019 Heard learned counsel for the petitioners and

learned APP for the State.

The petitioners are apprehending arrest in a case registered
for the offence punishable under Section 302/34 of the Indian
Penal Code.

The prosecution case as per the written statement of
Lakhindra Sah submitted to the S.H.O., Turkauliya P.S. is to the
effect that the father of the informant, Rajbanshi Sah took
Rs.1,000/- as loan from co-accused, Devnath Sah. On
24.05.2018 at 06.00 P.M., co-accused Devnath Sah demanded
Rs.3000/- as principle amount and interest of the same from the
father of the informant. When the father of the informant shown



his inability to pay the same at that time, co-accused Devnath Sah started abusing the father of the informant. On protest being made, all the FIR named accused persons including the petitioners, started assaulting the father of the informant with iron rod and lathi causing injuries on his head. Thereafter, the father of the informant was taken to hospital and subsequently, during course of treatment, on 27.05.2018, the father of the informant succumbed to injuries.

It is submitted by learned counsel for the petitioners that for the occurrence of 24.05.2018 at 08.00 P.M., the FIR has been registered on 27.05.2018 at 11.30 A.M. It is further submitted that the accusation is general and omnibus against the petitioners and during investigation the eye witnesses in paragraph nos. 4, 5, 6, 7, 15, 28 and 29 of the case diary have clearly stated that co-accused Devnath Sah assaulted with iron rod on the head of the father of the informant, hence the thrust of accusation of assault is against the co-accused Devnath Sah and maliciously the petitioners have roped in the present case since they happen to be the family members of co-accused Devnath Sah. It is also submitted that the postmortem report suggests the cause of death is head injury caused by hard and blunt substances.



Learned APP after going through the case diary submits that though the witnesses have stated that the iron rod blow was given by the co-accused Devnath Sah but the petitioners also assaulted the father of the informant.

Considering the fact that the thrust of accusation of causing injury on the head of the deceased is against the co-accused, Devnath Sah and the fact that five accused persons including the petitioners made assault to the deceased but only two injuries have been found in the postmortem report which does not corroborate by the statement of the eye witnesses, let the above named petitioners be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned **C.J.M., East Champaran at Motihari** in connection with **Turkauliay P.S. Case No.298 of 2018**, subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

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