

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21241 of 2021

Arising Out of PS. Case No.-125 Year-2020 Thana- NAUHATTA District- Saharsa

1. Kalabati Devi, W/o- Satya Narayan Mistry
2. Chhotakan Mistry S/o- Late Sukan Mistry
3. Jagarnath Mistry S/o- Satya Narayan Mistry @ Narayan Mistry
All are resident of Village- Shahpur Ward No. -8, P.S.- Nauhatta, District- Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar, Adv.

For the Opposite Party/s : Mr. Prem Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 14-12-2021 Heard learned counsel appearing on behalf of the
petitioners and learned APP for the State.

Let the defect(s) be removed within two weeks of the
complete start of the physical Court in normal course.

Petitioners who are in custody since 12.08.2020 seeks
regular bail in connection with Nauhatta P.S. Case No.125 of
2020 registered for offence punishable under Sections 341, 323,
307, 504/34 and subsequently Section 302 IPC had been added.

Prosecution case in brief, is that on 11.08.2020 at
about 05:30 AM the accused persons named in the FIR, armed
with lethal weapon and *Kudal* were found installing bamboo in
the land belonging to the informant, to which the informant
protested, then all the accused persons started assaulting Chedi



Mistry. Satya Narayan Paswan inflicted blow of *Kudal* on the head of Chedi Mistry, Chhotakan Mistry inflicted *Kudal* blow on the chest of Chedi Mistry. Thereafter, the injured Chedi Mistry was taken to Primary Health Center, Nauhatta for his treatment where the doctor referred to Sadar Hospital, Saharsa for better treatment and in course of the treatment, Chedi Mistry died.

Learned counsel appearing on behalf of the petitioners submits that, so far as petitioner no.1, Kalabati Devi is concerned there is a general and omnibus allegation against her and so far as Chhotakan Mistry is concerned there allegation against him in the FIR is that he has inflicted the deceased by *Kudal* on his chest, but there is no injury on the chest as would appear from the postmortem report. There is no specific allegation against Jagarnath Mistry. He further submits that there is specific allegation of assault against Satyanarayan Mistry and because of his blow of *Kudal* the deceased sustained head injury and in course of treatment he died.

Learned counsel appearing on behalf of the State submits that, on perusal of the case diary it appears that Kalabati Devi was active in the incidence, in which Chedi Mistry had been injured and in course of the said she had assaulted one



Chanchal Devi and Padma Devi, who is the mother of the informant due to which they sustained injury. He further submits that so far as accused no.2 Chhotakan Mistry is concerned there is direct allegation against him in the FIR that he has inflicted blow of *Kudal* on the chest of the Chedi Mistry (deceased), and his complicity in the brutal murder of Chhedi Mistry cannot be ruled out. He further submits that so far as Jagarnath Mistry is concerned he has also taken active role in catching hold of Chhedi Mistry and his father Satya Narayan Mistry against whom there is direct allegation of blow on the head of the deceased by *Kudal* and due to serious condition the deceased was taken to the hospital where as a result of the injury, he died in course of treatment. Taking into consideration the allegations made against the petitioners, it is not a fit case in which the petitioners be released on bail.

Having heard the parties and taking into consideration the allegations made in the FIR, I am not inclined to release Chhotakan Mistry (petitioner no.2) and Jagarnath Mistry (petitioner no.3), however, so far as Kalabati Devi (petitioner no.1) is concerned, this Court directs to release the petitioner no.1, Kalabati Devi on bail on furnishing bail bond of Rs.25,000/-(Twenty Five Thousand) with two sureties of the



like amount each to the satisfaction of learned Judicial Magistrate, Ist Class, Saharsa/successor court in connection with Nauhatta P.S. Case No.125 of 2020, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.

(2) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court.

(3) If the petitioners tamper with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioners.

As such, this application is dismissed as against petitioner no.2 and 3.

(Purnendu Singh, J)

Prakash Narayan /-

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