

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28504 of 2021

Arising Out of PS. Case No.-25 Year-2020 Thana- CHAKAND District- Gaya

1. INDRADEO CHAUDHARY, Son of Late Bengali Chaudhary Resident of Village - Bitho Sharif, P.S. Chakand, District - Gaya.
2. Ramjee Chaudhary, Son of Kail Chaudhary Resident of Village - Bitho Sharif, P.S. Chakand, District - Gaya.
3. Santosh Chaudhary @ Santosh Kumar, Son of Naresh Chaudhary Resident of Village - Bitho Sharif, P.S. Chakand, District - Gaya.
4. Kail Chaudhary, Son of Late Mahabir Chaudhary Resident of Village - Bitho Sharif, P.S. Chakand, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Satya Veer

For the Opposite Party/s : Mr. Avinash Kumar Singh

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 02-12-2021 Heard the learned Counsel for the petitioners the learned Additional Public Prosecutor for the State.

This application, for grant of regular bail, arises out of Chakand Police Station Case No. 25 of 2020, registered for the offences punishable under Sections 341, 337, 338, 302, 504/34 of the Indian Penal Code.

The learned counsel for the petitioners submits that the petitioners are in custody since 04.02.2021 and charge-sheet has been submitted. He further submits that from perusal of allegation, as alleged in the FIR, it would manifest that the informant alleges that on 16.02.2020 at about 7:00 P.M. his cousin brother, Birendra Choudhary came to his house via Bhuiya Tola. It

is alleged that the accused persons started abusing and when the victim protested, he was assaulted by the accused persons as a result he fell down and became unconscious and the villagers took the victim to the hospital where the doctor declared him dead, the informant further alleges that the reason for the occurrence is that the deceased used to stop the accused persons from unloading sand on the road but the present occurrence took place because the informant and his family members had unloaded the sand for constructing house.

The learned counsel for the petitioners submits that from perusal of the allegation as alleged in the FIR, it would manifest that the informant is not an eye witness and the allegation are general and omnibus in nature. No accused has been attributed with specific allegation of assault and even in the nature of allegation, it can easily be presumed that it was not the intention of the petitioner to kill rather free fight with bricks took place.

The learned counsel for the informant opposes the bail application and submits that all these petitioners assaulted the victim. The learned counsel for the informant is supported by learned APP and it is submitted that the mother of the deceased in her statement under Section 161 had recorded at para 12 that it was the petitioner No.1, who assaulted deceased with bricks on his

head, as a result of which he died.

The learned counsel for the petitioners submits that the mother of the deceased is also not an eye witness and has not seen the occurrence.

Considering the fact that the petitioners are in custody and charge-sheet has been submitted, the petitioners, named above, be released on bail on furnishing bail bond of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-VI, Gaya, in connection with Chakand Police Station Case No. 25 of 2020, with a condition that petitioners will mark their attendance in the concerned police station on 15th of every month commencing from December, 2021 till the charges are framed and in the event if it is reported by the concerned P.S. to the learned Court below that the petitioners on any of the 15th of any of the month have not marked their attendance, then Court below will be at liberty to cancel their bail-bond.

(Satyavrat Verma, J)

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