

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35558 of 2020

Arising Out of PS. Case No.-209 Year-2020 Thana- CHANPATIA District- West Champaran

1. Aslam Sheikh Son of Sheikh Nasim @ Nasim Sheikh Resident of Village-Senwariya Tola Bharha, Police Station-Chanpatia (Sirisiya O.P.), District-West Champaran.
2. Muslim Sheikh Son of Sheikh Nasim @ Nasim Sheikh Resident of Village-Senwariya Tola Bharha, Police Station-Chanpatia (Sirisiya O.P.), District-West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sachida Nand Rai
For the Opposite Party/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 29-01-2021 Heard both parties.

The petitioners seek bail in Chanpatia (Sirisiya OP))

P.S. Case No. 209 of 2020, registered for the offence punishable under Sections 147, 148, 149, 341, 323, 324, 307 and 302 of the Indian Penal Code.

As per prosecution case, on the alleged date of occurrence, petitioner no. 1 and co-accused Hasmuddin are alleged to have assaulted the nephew of informant by lathi on his neck and head. Petitioner no. 2 is alleged to have assaulted the informant by iron rod on his head. Later on nephew of the informant succumbed to the injuries.

It is submitted on behalf of the petitioners that there is



land dispute between the parties. Specific allegation of assault by lathi on the head and neck of deceased is against petitioner no. 1, causing death of deceased, but in the postmortem report no such injury was found on the person of deceased. Petitioner no. 2 is alleged to have assaulted the informant by iron rod causing simple injury to him. Petitioners are in custody since 17.05.2020.

However, learned APP vehemently opposed the bail application and submitted that deceased died due to assault which is attributed to petitioner no. 1.

So far as the case of Aslam Sheikh petitioner no. 1 is concerned, there is specific allegation of assault against him causing death of informant's nephew, therefore, I am not inclined to enlarge him on bail. Accordingly, the same is rejected.

Considering the fact that Muslim Sheikh petitioner no. 2 is only alleged to have caused simple injury to the informant and there is land dispute between the parties, Muslim Sheikh petitioner no. 2, is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000 (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Bettiah, West Champaran in connection with



Chanpatia (Sirisiya OP) P.S. Case No. 209 of 2020, subject to following conditions:-

(i) The petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(ii) If the petitioner tampers 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 petitioner.

(Prabhat Kumar Singh, J)

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