

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13663 of 2021

Arising Out of PS. Case No.-452 Year-2020 Thana- NAUTAN District- West Champaran

1. SK.NASIM @ NASIM ALAM Son of Sk. Allauddin Resident of village - Kunjalhi, Police Station - Nautan, District - West Champaran.
2. Sk. Tugiyon Son of Late Sk. Hedayat Resident of village - Kunjalhi, Police Station - Nautan, District - West Champaran.
3. Sk. Israfil Son of Late Sk. Israil Resident of village - Kunjalhi, Police Station - Nautan, District - West Champaran.
4. Sk. Abadul @ Sk. Abdul Son of Sk. Israfil Resident of village - Kunjalhi, Police Station - Nautan, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Brij Kishor Mishra
For the Opposite Party/s : Mr.A.G.

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

3 10-01-2022 Learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard the learned counsel for the petitioners and the learned APP for the State through video conferencing.

The petitioners apprehend their arrest for the offences alleged under Sections 147, 148, 149, 341, 323, 325, 307, 504 and 506 of the Indian Penal Code, registered in connection with Nautan P.S.Case No. 452 of 2020 and Section 302 of the IPC was added after the death of the deceased Sheikh Zamil.

The informant Sheikh Zamil (since deceased) had lodged the FIR, stating therein that his neighbour, co-accused



Sk. Allauddin came to his door and for some money transaction, he started abusing. On protest, the FIR named accused persons, including the petitioners, came there with *lathi*, *danda* etc. Co-accused Sk. Allauddin and Sk. Afzal caught hold of the informant and Sk. Jallauddin inflicted *lathi* blow on the left hand of the informant. Thereafter all the accused persons including the petitioners badly assaulted him with fists and legs. He was brought to a primary health centre, from where he was referred to the Sadar Hospital, Bettiah. The informant succumbed to the injuries.

The learned counsel for the petitioners has submitted that specific allegation of assault on the left hand of the informant is on co-accused Sk. Jalauddin. He has also submitted that there is a counter case lodged on behalf of Md. Zakir from the petitioners' side, to which learned counsel for the informant has denied that it was a counter case, rather it is much earlier case than the present one, to which the learned counsel for the petitioners has submitted that it is for the same day occurrence. The learned counsel for the petitioners has also submitted that the patient died after six days of the injury sustained by him.

The post mortem report has been annexed with the case diary, which shows 1. old lacerated wound 2"x ½" on left



forearm dorsal at mid part of forearm. 2. Abrasion 02” in length (old) on (Rt.) leg. Old bruise 2”x ½” on occipital area of skull underneath the scalp. Old subdural hematoma (dark brown) measuring 3” x ½” on occipital area of brain. Brain congested. Trachea congested, chest cavity is full of dirty fluid. Lungs congested. Heart enlarged in size with fatty deposition over it. (Rt.) chamber contains little blood. Left chamber empty.

The allegation against the petitioners is that they along with other accused persons badly assaulted the deceased with fists and legs etc., which is corroborated by the post mortem report.

In these circumstances, it is not a fit case for grant of anticipatory bail. The application for grant of anticipatory bail is hereby rejected.

Office shall ensure that all the defects are removed by the petitioners within the stipulated time provided hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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