

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51576 of 2021

Arising Out of PS. Case No.-23 Year-2009 Thana- SIKTI District- Araria

-
1. Sk. Inzel @ Shaik Inzil @ Inajil Miyan Son Of Md. Rozid @ Rojid Residents Of Village- Saidabad, Police Station- Sikty, District- Araria
 2. Sk. Tabrej @ Sheik Taurej Son Of Md. Rozid @ Rojid Residents Of Village- Saidabad, Police Station- Sikty, District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Rana, Advocate.

For the Opposite Party/s : Mr. Akbar Ali, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 16-08-2022 Learned counsel for the petitioners is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Mukesh Kumar Rana, learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioners, above named, who have been made accused and put behind the bar in connection with Sikty P. S. Case No. 23 of 2009 registered for the offences punishable under Sections 324, 307 read with 34 of the Indian Penal Code and later on Section 302 of the Indian Penal Code was added.



As per the prosecution case, it is alleged that on 28.02.2009, the informant went to his *susrat* where his second wife, namely, Chhotki Bibi was going to Raniganj Village, when the informant tried to stop his wife, thereafter, some scuffle took place and all the accused persons including these petitioners caught the deceased and poured kerosene oil on his body and the petitioner no. 2 set fire.

Learned counsel appearing on behalf of the petitioners submitted that with regard to the occurrence which took place on 28.02.2009, the F.I.R. was lodged on 01.03.2009 and after death of the deceased on 01.03.2009, later on, Section 302 of the Indian Penal Code was added. It is further submitted that during the course of investigation the parents of the deceased as well as other witnesses have categorically stated that in fact, on account of quarrel with co-accused Chhotki Bibi, the deceased himself set fire on his body by pouring kerosene oil and taking into consideration the statement of witnesses, the police has submitted final form showing them innocent. However, differing with the final form, the learned court has taken cognizance of the offence against the petitioners and others. It is next submitted that co-accused Chhotki Bibi against whom there was specific allegation has already been granted



bail by learned co-ordinate Bench of this Hon'ble Court in Cr. Misc. No. 38932 of 2009 vide order dated 04.01.2010. It is also submitted that the petitioners are poor labourers and on being came to know that the police has not sent up them for trial, they understood that the case has been finalized and they went for their livelihood and they were not even aware that the learned court has taken cognizance in the matter. It is lastly submitted that both the petitioners are in custody since 07.07.2021, having fair antecedent.

On the other hand, learned APP for the State opposes the bail application and submits that there is specific allegation against the petitioners, who had caught hold the deceased after pouring the kerosene oil and set him on fire.

Having considered the submissions made on behalf of the parties and taking into account the fact that the petitioners were not sent up for trial but differing with the final form, the learned court has taken cognizance of the offence and moreover, the petitioners are in custody since 07.07.2021, having fair antecedent, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Araria in connection with



Sikty P. S. Case No. 23 of 2009, subject to the condition that one of the bailors will be the close relative of the petitioners with further conditions which are as follows:-

- (i) The petitioners will cooperate in conclusion of the trial.
- (ii) They will remain present on each and every date of trial till disposal of the case.
- (iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(Harish Kumar, J)

shakir/-

U		T	
---	--	---	--

