

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22089 of 2022

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

1. SHEKH ALLAUDDIN SON OF LATE SHEKH HAKIM R/O VILLAGE-KUNJLAHI, P.S.- NAUTAN, DISTRICT- WEST CHAMPARAN
2. SHEKH NASIM @ NASIM ALAM SON OF SHEKH ALLAUDDIN R/O VILLAGE- KUNJLAHI, P.S.- NAUTAN, DISTRICT- WEST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Akhileshwar Kumar Shrivastva, Advocate
For the Opposite Party/s : Mr.Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 02-01-2023 Heard the learned counsel for the petitioners and
the learned APP for the State.

The petitioners seek regular bail in connection with Nautan PS case no. 452 of 2020 instituted for the offences punishable under Sections 307, 302 and other allied sections of the Indian Penal Code.

The case of the prosecution is that on 01.11.2022 while the informant was sitting at his door, his neighbour namely Shekh Allauddin i.e. the petitioner no. 1 came there and started abusing the informant on account of some dispute having arisen pertaining to financial matter and when the informant had objected to the same, other accused persons also came there



armed with lathi and danda (stick), whereupon the petitioner no. 1 and one another co-accused person namely Sheikh Afzal had caught hold of the informant, whereupon Sheikh Jalauddin had assaulted on the left hand of the informant causing fracture injury. It is also alleged that other co-accused persons had then assaulted the informant with fists and slaps as also by sticks.

The learned counsel for the petitioners submits that the petitioners are innocent, have been falsely implicated in the present case and are languishing in custody since 07.08.2021. The learned counsel for the petitioners has submitted that as far as petitioner no. 1 is concerned, he is having a clean antecedent, however, a supplementary affidavit has been filed on behalf of petitioner no. 2, wherein it has been stated that he is an accused in two other cases but he is on bail in the said cases. It is further submitted that as far as the petitioners are concerned, they have only been alleged to have caught hold of the informant, however, there is no allegation of them having assaulted the informant, hence, the death of the informant, which according to the post mortem report is on account of head injury, is not attributable to the petitioners herein. It is also stated that a general and omnibus allegation has been levelled against the petitioners, hence benefit of doubt can



be granted to them for the purposes of grant of bail.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record as also considering the materials available in the case diary, this Court finds that a general and omnibus allegation has been levelled against the petitioners and they have not been alleged to have assaulted the deceased informant on his head, hence considering the fact that the cause of death, as mentioned in the post mortem report, is head injury, this Court finds that prima facie, the petitioners cannot be said to be responsible for the death of the informant, apart from the fact that there is considerable delay in lodging of first information report, inasmuch as though the incident had taken place on 01.11.2020, however, the FIR has been lodged only on 14.11.2020. Under the aforesaid circumstances, I deem it fit and appropriate to admit the petitioner to the privilege of bail.

Accordingly, the abovenamed petitioners are directed to be released on regular bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) each with two sureties of the



like amount each to the satisfaction of learned Judicial
Magistrate 1st class, Bettiah, West Champaran in connection
with Nautan PS case no. 452 of 2020.

(Mohit Kumar Shah, J)

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