

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38698 of 2023

Arising Out of PS. Case No.-566 Year-2022 Thana- CHAPRA TOWN District- Saran

1. DUKHAN KUMAR @ DUKHAN MAHTO S/o Late Satan Mahto R/o village-Bichla Telpa, (Bin Toli), P.S.-Town (Nagar), Dist-Saran at Chapra
2. BHUKHAL MAHTO S/o Late Satan Mahto R/o village-Bichla Telpa, (Bin Toli), P.S.-Town (Nagar), Dist-Saran at Chapra

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Tej Pratap Singh, Adv.
For the Opposite Party/s :	Mr.Uday Chand Prasad, APP.
	Mr. Bhanu Prakash, Adv.
	Mr. Praveen Prabhakar, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 21-08-2023 Heard the parties.

2. The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 341, 323, 307, 504, 34 of the Indian Penal Code and later on Section 302 of IPC was added.

3(1). Allegedly, when the informant along with his father was going to his new constructed house, all the FIR named accused persons stopped the motorcycle and on instigation of petitioner no.2, they started assaulting him and his father with deadly weapons. Petitioner no.1 assaulted the informant's father with *lathi*.

3(2). The informant's father was first added at local clinic



and then referred to Sadar Hospital where he died during treatment.

4. It is submitted by learned counsel for the petitioners that petitioners are quite innocent and have committed no offence. No such occurrence as alleged ever took place. Petitioners have been falsely implicated in this case due to ulterior motive. The allegation levelled against the petitioners is not specific rather general and omnibus in nature. There is specific allegation against one Pujari Mahto that he assaulted the deceased with iron rod on his head. It is further submitted that from bare perusal of the postmortem report, it is evident that the cause of death of the deceased was “Cardio pulmonary arrest due to chronic disease”. Petitioners have no criminal antecedent as mentioned in para-3 of this application.

5. Learned APP for the State as well as learned counsel for the informant opposed the prayer for bail and submitted that there is specific allegation against all the accused persons including these petitioners that they assaulted the informant and his father brutally with deadly weapons due to which the informant's father died during treatment, hence they do not deserve anticipatory bail.

6. Having regard to the facts and circumstances of the



case, as petitioner no.2 was an order giver in the present case, let the above named petitioner no.2, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned lower Court where the case is pending/successor Court in connection with Town P.S. Case No. 566 of 2022, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

7. As there is specific allegation of assault against petitioner no.1 due to which the informant's father died, I am not inclined to enlarge the petitioner no.1 on bail. The prayer for bail of the petitioner no.1 is hereby rejected.

8. Accordingly, this application stands partly allowed.

(Anjani Kumar Sharan, J)

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