

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58019 of 2023

Arising Out of PS. Case No.-214 Year-2018 Thana- TEKARI District- Gaya

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1. Hena Perween Wife Of Syed Khalid Rasool Residents Of Village- Ridpura, Ps- Alipur, Distt- Gaya
 2. Shawana Perween @ Shabana Perween Daughter Of Late Neyaz Ahmad Residents Of Village- Ridpura, Ps- Alipur, Distt- Gaya
 3. Shabbir Ahmad Son Of Late Neyaz Ahamd Residents Of Village- Ridpura, Ps- Alipur, Distt- Gaya
 4. Jahan Ara Khatoon Wife Of Late Neyaz Ahmad Residents Of Village- Ridpura, Ps- Alipur, Distt- Gaya
 5. Shagupta Azmi @ Shagufta Azmi Daughter Of Late Neyaz Ahmad Residents Of Village- Ridpura, Ps- Alipur, Distt- Gaya
 6. Md Khalilulddin Son Of Late Md Kallu Khan Resident Of Village- Rikabganj, Tekari, Ps- Tekari, Distt- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Syed Khalique Rasool Son Of Md Sadique Rasool Residents Of Village- Rikabganj, Ps- Tekari, Distt- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Md. Murad Ashraf, Advocate
For the Informant	:	Mr. Ajay Kumar Tiwary, Advocate
For the State	:	Mr. Sanjay Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 13-12-2023 Heard Md. Murad Ashraf, learned counsel appearing on behalf of the petitioners and the learned Additional Public Prosecutor for the State. The informant is represented by learned counsel Mr. Ajay Kumar Tiwary.

2. The petitioners apprehend their arrest in connection with Tekari PS Case No. 214 of 2018 dated 10.06.2018, registered for the offences punishable under Sections 147, 148,

323, 504, 379 and 302 of the Indian Penal Code.

3. Allegedly on the alleged date of occurrence while the complainant along with his family members were at home, all the FIR named accused persons including the petitioners armed with sticks came there and started beating. It is specifically alleged that petitioner nos. 3, 6 and one another co-accused assaulted the complainant by *fists* and *sticks* and when the mother of the complainant came in his rescue, they caught hold her hair and pushed her down due to which she sustained severe injury in her head and became unconscious, later on succumbed to the injuries.

4. It is submitted on behalf of the petitioners that from the narratives made in the complaint petition, which is the basis of the FIR, it is evident that the alleged occurrence took place on 03.02.2018, but the complaint in this respect has been filed on 09.05.2018, after delay of more than three months. Moreover, during the course of investigation independent witnesses, whose statements have been recorded in paragraph no. 51, 52 and 58 of the case diary, have specifically stated that the deceased died on account of her ailment and no accusation has been levelled against the petitioners. He further drew the attention of this Court to the refer ticket issued by the ANMMC

Hospital, Gaya and with reference thereto he submits that, it does not suggest that the deceased had sustained any injury. Moreover, the deceased had died on 04.02.2018 itself, but no complaint has been made for a pretty long time. He lastly submits that the petitioners are persons of fair antecedent and the present FIR has been instituted on the premise of old enmity and recently charge-sheet is also submitted.

5. On the other hand, learned counsel appearing on behalf of the State as well as the informant vehemently opposed the pre-arrest bail application and submit that the specific allegation has been levelled against petitioner nos. 3 and 6, who caught hold of the deceased and pushed her down due to which she sustained injuries and went in *coma*, which subsequently resulted into her death.

6. Regard being had to the submissions made on behalf of the parties and considering the delay in lodging the FIR and the fact that there is neither any injury report nor *post-mortem*, coupled with the statements of the independent witnesses recorded during the course of investigation, let the petitioners above named be released on bail, in the event of their arrest or surrender before the Court below within a period of four weeks from the date of receipt / production of a copy of

this order, upon furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate-I, Gaya in connection with **Tekari PS Case No. 214 of 2018**, subject to the conditions laid down in Section 438(2) of Cr.P.C. with the further condition that one of the bailors shall be the own / close family members of the petitioners.

(Harish Kumar, J)

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