

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38129 of 2014

Arising Out of PS.Case No. -36 Year- 2013 Thana -ANDHRAMATH District- MADHUBANI

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1. Bachchelal Mukhiya Son of Late Jhatak Mukhiya
2. Satochan Mukhiya @ Satichandra Mukhiya Son of Bachchelal Mukhiya
3. Gunanand Mirdha Son of Sunnilal Mirdha
All Resident of village- Laukahi Dhanchiha, P.S.- Andhramath, Dist.-
Madhubani. Petitioner/s

VERSUS

THE STATE OF BIHAR OPPOSITE PARTY/S

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Appearance:

For the Petitioner/s : Mr. Arvind Kumar, Adv.
For the Opposite Party/s : Mr. Anil Kumar Singh-I (App)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

6 29-06-2015

Heard learned counsel for the petitioners as well as
learned Additional Public Prosecutor.

Informant Deoki Devi had alleged that after having
compromise of a case launched at her behest, her husband was
enjoying his marital life. After sometime her husband disclosed
that he is going outside to earn livelihood and accordingly left.
Even after spending of one year her husband did not take care
even by informing or intimating or asking for her well being.
Subsequently thereof, the witnesses so named have disclosed
that they have seen the accused persons in company of her
husband while boarding train. Because of the fact that at an
earlier occasion there was quarrel amongst accused persons as
well as her husband, as such, she apprehended that her
husband might have been kidnapped as well as murdered.

It has been contended on behalf of petitioners that
instant case has been filed after a year of alleged date of
occurrence without any cogent, reasonable explanation. It has
also been submitted that mere boarding the train will not

suggest complicity of petitioners therefore, neither there happens to be direct evidence nor circumstantial more particularly, as last seen. So submitted that petitioners are entitled for anticipatory bail.

The learned Additional Public Prosecutor opposed the prayer.

Gone through the record. From record it transpires that Annexure-3 is a Complaint Petition No.466 of 2012 which has been filed by one of the accused Bachchelal Mukhiya against Officer-in-charge as well as Assistant Officer-in-charge with regard to apprehension of the alleged victim. Annexure-4 is the report submitted by the Officer-in-charge in pursuance of court's order wherefrom it is evident that after apprehension of alleged victim differences amongst the parties were sorted out in the P.S. premises itself and then thereafter, victim along with his wife proceeded therefrom. It has also been disclosed therein that victim had left for Rajasthan as has been disclosed by the complainant. The aforesaid complaint petition, as has been stated by the learned counsel for the petitioner is still pending without any progress.

Now coming to the status of the case diary, it is evident that witnesses recorded under para-6 and para-7, para-8 claimed to have seen accused persons in company of alleged victim while boarding train which they did not utter during such long period. Furthermore no evidence has been collected up till now by the Investigating Officer regarding subsequent event, if any.

Regard being had to the facts and circumstances of the case, petitioners Bachchelal Mukhiya, Satochan Mukhiya @ Satichandra Mukhiya, Gunanand Mirdha each are directed to be released on bail on furnishing bail bonds of Rs.10,000/-(ten thousand) each with two sureties of the like amount each, to the satisfaction of learned Additional Chief Judicial Magistrate, Jhanjharpur in connection with Andhramath P.S. Case No.36 of 2013 in the event of their arrest / surrender within four weeks in terms of condition so laid down under Section 438(2) Cr.P.C.

(Aditya Kumar Trivedi, J.)

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