

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36594 of 2014

Arising Out of PS.Case No. -153 Year- 2014 Thana -SAKRA District- MUZAFFARPUR

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1. Richa Devi @ Richa Kumari Wife of Late Sanjay Sharma, Daughter of Bijali Sharma
2. Bijali Sharma Son of Late Shivcharan Sharma
3. Sujit Sharma Son of Bijali Sharma
4. Lalit Sharma Son of Bijali Sharma
5. Ajit Sharma Son of Bijali Sharma All R/o village- Dubaha, P.S.- Sakra, District- Muzaffarpur

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

5 09-04-2015 Heard learned counsel for the parties.

Learned counsel for the petitioner submits that during the pendency of this writ application, petitioner no. 2 has already been arrested and therefore, his prayer for anticipatory bail has become infructuous.

That being so, the prayer for anticipatory bail of petitioner no. 2, Bijali Sharma is hereby rejected.

Having regard to the nature of allegation for the offences punishable under sections-302, 328, 120B/34 of the Indian Penal Code and the fact that petitioner no. 1 is the wife of the deceased whereas petitioner nos. 3, 4 and



5 are the brothers of petitioner no. 1 and brother-in-law of the deceased and the deceased is said to have died under suspicious circumstances in the house of petitioners, the implication of the petitioners in the alleged offence in any way could have surfaced had there been any case of poisoning or presence of external injury on the person of the deceased. From the incomplete Post Mortem Report all that transpires is that there was no external injury on the person of deceased and the opinion of the cause of death has been kept reserved by the Doctor conducting postmortems report awaiting the report of the Forensic Science Laboratory and thus as of now even this much cannot be said that the deceased was done to death by way administering him poison.

In that view of the matter, the petitioners who have got no criminal antecedent would be released on provisional bail, and their provisional bail shall continue till receipt of the report of the F.S.L., and if in the report



of the F.S.L., the cause of death is found to be poisoning of the deceased, their provisional bail shall be cancelled and they will be taken into custody whereafter they would be at liberty to make prayer for regular bail. On the other hand if no poison is found in the report of Forensic Science Laboratory the provisional bail to the petitioners shall be confirmed.

That being so, if the petitioners namely, **Richa Devi @ Richa Kumari, Sujit Sharma, Lalit Sharma and Ajit Sharma**, surrender within a period of four weeks from today, would released on provisional bail till the receipt of report of Forensic Science Laboratory on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of **Chief Judicial Magistrate, Muzaffarpur** in connection with **Sakra P.S. Case No. 153 of 2014 (Tr. No. 4153 of 2014)** subject to the conditions laid down under Section- 438 (2) Cr. P.C and also subject to the following conditions:-



(i) That both the bailors will be close relative of the petitioners who will give an affidavit giving genealogy as to how they are related with the petitioners. The bailors will also undertake to inform the Court if there is any change in the address of the petitioners.

(ii) That the bailors shall also state on affidavit that they will inform the Court concerned if the petitioners are implicated in any other case of similar nature after their release in the present case and thereafter the Court below will be at liberty to initiate the proceeding for cancellation of their bail on the ground of misuse.

(iii) That the petitioners will give an undertaking that they will receive the police papers on the given date and be present on the date fixed for charge and if they fail to do so on two given dates and delays the trial in any manner, their bail will be liable to be cancelled for reasons of misuse.

(iv) That the petitioners will be well represented on each and every date of trial and if they fail to do so on two consecutive dates, their bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

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