

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25001 of 2016

Arising Out of PS.Case No. -157 Year- 2015 Thana -AADAPUR District-
EASTCHAMPARAN(MOTIHARI)

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1. Ram Ekbal Mahto
2. Ram Prasad Mahto
3. Rajesh Mahto 1 to 3 are sons of Late Chhathu Mahto
4. Manoj Mahto Son of Ram Ekbal Mahto all resident of village- Beldarwa,
P.S.- Adapu, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Yogendra Prasad Sinha, Advocate

For the Opposite Party/s : Mr. Shailendra Kumar-I(App)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

4 05-08-2016

Heard learned counsel for the petitioners, learned
counsel for the informant and learned A.P.P. for the State.

It has been submitted by the learned counsel for the
petitioners that petitioners Nos. 1 and 2 have already surrendered,
as such, this application has become infructuous as against them.

The petitioner Nos. 3, Rajesh Mahto and petitioner
No. 4, Manoj Mahto apprehend arrest in connection with Adapur
P.S.Case No. 157 of 2015 registered for offences punishable under
Sections 302, 120 (B)/34 of the I.P.C.

The prosecution case as lodged on the basis of
written application by Anita Devi before S.H.O. Adapur on
07.09.2015, stating therein that her husband Shambhu Pandey @



Shabhu Nath was priest of Beldarwa Math and he used to sleep in Math after taking food in the house. On 06.09.2015 as usual he went to sleep in Math but next morning he did not return to his house. Then the son of the informant, namely Mithlesh Kumar @ Munna went in search but he saw that his father was lying on the ground and his head was disappeared from the body. The informant also saw that her husband was dead and his head was not there and blood was also there. It is further stated that some days before, the son of Manoj Mahto (accused) had died under dubious circumstances and from that time the petitioners/accused persons always abused and threatened the informant's family and told that they will take revenge and kill the informant's family.

It has been submitted by the learned counsel for the petitioners that they are innocent and have committed no offence. He further submits that there is no eye witness to the alleged occurrence and the matter is still pending for investigation and it is only on the basis of the suspicion that the petitioners have been implicated. He further submits that these petitioners have no criminal history, as is evident from para-3 of the application.

In fact, it is submitted that even from the F.I.R., it is evident that the son of the petitioner No. 4, Manoj Mahto had died some time back and they were on inimical terms, as such they have been falsely implicated. Learned counsel for the petitioners

also submit that none of the independent witnesses have supported the prosecution.

Learned counsel appearing on behalf of the informant submits that the petitioners are named in the F.I.R. and the deceased being a priest of the Math, was a respectable person in the village and being on inimical terms, the accused persons have killed the informant's husband under conspiracy.

Learned A.P.P. for the state submits that the petitioners are named in the F.I.R. hence, opposes the prayer for bail.

Be that as it may, since there is no eye witness and the petitioners have been implicated on the basis of suspicion, let the above named petitioners in the event of their arrest or surrender before the Court below within a period of eight weeks from today be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand only) each with two sureties of the like amount each to the satisfaction of learned Sub Divisional Judicial Magistrate, Raxaul at Motihari in connection with Adapur P.S.Case No. 157/2015, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

It is also directed that the petitioners will co-operate with the investigation and will appear before the Police/ Court as and when required and failure to appear on two consecutive dates

without assigning any reason will entail cancellation of their bail bonds without being prejudiced with this order.



(Nilu Agrawal, J)