

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23860 of 2016

Arising Out of PS.Case No. -29 Year- 2016 Thana -BHAGWANPUR
District- VAISHALI(HAJIPUR)

- =====
1. Shambhu Sah, Son of Late Jamun Sah
 2. Ganesh Sah, son of Late Ram Sajivan Sah,
Both residents of Village-Sahtha Nyamatpur,
P.S.- Bhagwanpur, District- Vaishali

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Krishna Prasad Singh, Sr. Advocate
Mrs. Bela Singh, Advocate
Mr. Rajeev Ranjan, Advocate
For the S t a t e : Mrs. Nirmala Kumari(APP)
For the Informant : Mr. Sushant Kumar, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

4 11-08-2016 Heard learned counsel for the petitioners and the

learned counsel appearing on behalf of the State. Learned

counsel for the informant is also present.

The petitioners are apprehending their arrest in
connection with Bhagwanpur P.S. Case No.29 of 2016 for
allegedly having committed the offence under Sections 364,
302, 201/34 of the Indian Penal Code.

Learned counsel for the petitioners submits that in the
present occurrence, the petitioners have been named as accused
persons.

The allegation against these petitioners is that they



had taken away the brother of the informant while he was returning from Thana where his wife had filed another case, alleging bad behaviour and belligerent act of the accused persons. It is submitted that while they were returning from there, the accused persons accosted them and threatened and further picked up the brother of the informant and took him away in a fast moving vehicle. The following day, the body of the informant's brother was found near the Railway Station of Rajendra Nagar Terminal, Patna. Accordingly, U.D. Case No.05/2016 was registered by G.R.P., Rajendra Nagar Terminus by the Station Master and information was sent to the Mukhiya of the village on 3rd of February, 2016 itself from whom the petitioner derived information. Thereafter, he came to Patna on 3.2.2016 itself and identified his brother's body. Thus, it is alleged that petitioners being last seen with his brother were responsible for the occurrence and that his brother had been done to death by the accused persons.

Learned counsel appearing on behalf of the petitioners further submits that though the informant had come to know about the occurrence on 3rd February, 2016 itself, no plausible explanation has been offered by him as to why no case was registered either at Patna or at Vaishali between 3rd

and 4th February, 2016. The instant case was registered on 5th February, 2016. Thus, a serious cloud is cast on the prosecution story and that the allegations are based purely on suspicion.

Learned counsel appearing on behalf of the informant submits that the accused persons had been over belligerent, which has resisted the informant's side to file case against them and for the said reason, they had been threatened and the informant's brother had been kidnapped and taken away by a fast moving vehicle after which he was found dead.

Case diary in the present case was called for, which has since been received.

The case diary as well as the post-mortem report reveals that the deceased had died out of head injury and blood was oozing from the back of his head. There was also an injury on his scalp and he was found beside the railway track in a side position. Thus, it cannot be said that the informant's brother had been attacked prior to his death and apparently, it was a death caused out of a fall from a moving train. The said statement has also been made by the Station Master, who has lodged the U.D. case.

Learned counsel for the informant, on inquiry, has not been able to give any satisfactory explanation as to why the

informant did not inform the police that it was not a U.D. case but a case of murder and the person concerned so found had been kidnapped earlier.

Considering the entire facts and circumstances and that there being no satisfactory explanation for the delay in lodging the F.I.R. as also there being no cogent material further to support the case of the informant, let both the petitioners, above named, 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, 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 the learned Chief Judicial Magistrate, Vaishali, in connection with Bhagwanpur P.S. Case No.29 of 2016, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Anjana Mishra, J)

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