

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46534 of 2016

Arising Out of PS.Case No. -148 Year- 2016 Thana -KOTWALI District- PATNA

1. Vikash Pathak @ Vikash Kumar Pathak Son of Radhakant Pathak
Resident of Village-Sahauli, P.S.- Hussainganj Distt. Siwan

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.46873 of 2016

Arising Out of PS.Case No. -148 Year- 2016 Thana -KOTWALI District- PATNA

1. Gyanand @ Gyanand Jha @ Gyananand, Son of Mohan Chandra Thakur,
Resident of Ward No. 18, P.S. Satyadevpuri, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.46534 of 2016)

For the Petitioner/s : Mr. Prabhakar Singh

For the State : Mr. Asharaf Ansari, APP

For the informant : Mr. S. Azeem, Advocate

Mr. A.L. Pandit and Smt. Urvashi Bharti

(In Cr.Misc. No.46873 of 2016)

For the Petitioner/s : Mr. Prabhat Kumar Singh

For the State : Mr. Anil Kumar, APP

For the informant : Mr. A. L. Pandit, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR

JHA

ORAL ORDER

3 14-12-2016

Heard both sides.

The petitioners, Vikash Pathak @ Vikash Kumar Pathak and Gyanand @ Gyanand Jha @ Gyananand apprehend their arrest in Kotwali P.S. case No. 148 of 2016 under Section 302, 201/34 of the Indian Penal Code.

The informant, mother of the deceased, alleged that petitioners and other accused persons were living together with



deceased, Dipu Nath Tiwari and her son was missing. The dead body of her son was recovered from a drain in decomposed condition. The informant suspected that Chhotu, Modi, Gyanand @ Gyanand Jha @ Gyananand, petitioner of Cr. Misc. No. 46873/2016, Vikash Pathak @ Vikash Kumar Pathak, petitioner of Cr. Misc. No. 46534 of 2016 and Vikash Jha might have killed her son.

The learned counsel for the petitioners submits that from perusal of the case diary it would appear that two witnesses in paragraphs 29 and 30 of the case diary disclosed that Dipu Nath Tiwari and Gyanand @ Gyanand Jha @ Gyananand quarreled with each other after taking wine. Gyanand @ Gyanand Jha @ Gyananand broke front wind glass of the vehicle being driven by Modi @ Rabindra Kumar. Modi demanded Rs. 50,000/- as damage and some altercation took place. It is further submitted that Gyanand @ Gyanand Jha @ Gyananand and Dipu Nath Tiwary quarreled with each other and thereafter Gyanand @ Gyanand Jha @ Gyananand fled away towards High Court campus. Nobody seen Dipu Nath Tiwary and in the next morning he was found missing and after four days his dead body was recovered from a drain. It is further submitted that from perusal of paragraph 72 of the case diary it would also appear that Chhotu



wrote a letter to D.G.P., Bihar Patna stating entire facts about the occurrence but there is nothing in the letter that the petitioners killed Dipu Nath Tiwary. In paragraph 133 of case diary co-accused, Modi @ Rabindra Kumar confessed his guilt and in paragraph 138 of case diary Ranjan Kumar also confessed his guilt but there is no material against the petitioners that they killed Dipu Nath Tiwary.

On the other hand the learned counsel for the informant as well as the learned Additional Public Prosecutor vehemently opposed the prayer for anticipatory bail and submitted that when the informant enquired from Vikash Kumar Pathak, he disclosed that her son went to Delhi. The petitioners did not disclose true facts. The accused persons also distorted the facts in their statement. Both the petitioners were living together with the deceased.

It appears that informant suspected that petitioners, Vikash Pathak @ Vikash Kumar Pathak, Gyanand @ Gyanand Jha @ Gyananand and others might have killed her son but from perusal of the case diary it appears that save and except suspicion there is no material against the petitioners to show that petitioners killed Dipu Nath Tiwary. It has only come that some quarrelling took place in between Gyanand @ Gyanand Jha @ Gyananand,



petitioner of Cr. Misc. No. 46873 of 2016, and Dipu Nath Tiwary and Gyanand @ Gyanand Jha @ Gyananand fled away. Thereafter, Dipu Nath Tiwary was also missing and his dead body was recovered after four days of the occurrence. In the post mortem report no visible sign of assault on the body was found and except suspicion there appears no tangible material against the petitioners.

Considering the facts aforesaid and the nature of allegations made against the petitioners, the above named petitioners, in the event of their arrest or surrender before the learned court below within a period of four weeks from the date of receipt / production of a copy of this order, are directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Patna in Kotwali P.S. Case No. 148 of 2016, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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