

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19195 of 2017

Arising Out of PS.Case No. -162 Year- 2013 Thana -BARAULI District- GOPALGANJ

- =====
1. Yogendra Upadhayay
 2. Bidya Bhushan Upadhayay Both sons of Late Vyas Upadhayay resident of village - Sisai, P.S. - Barauli, District - Gopalganj.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Ashish Giri, Advocate.

For the Opposite Party/s : Mr. Mukeshwar Dayal, APP.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 01-05-2017 Heard both sides.

The petitioners seek bail in Barauli P.S. Case No. 162 of 2013 registered under Sections 302, 201 and 34 of the Indian Penal Code.

The informant Uday Upadhayay alleged that his niece aged about 16 years had gone out of her house to attend the call of nature, but she did not return within one hour. The informant searched for his niece. It is further alleged that co-sharer, namely, Yogendra Upadhayay (petitioner no.1), Mantu Upadhyay, Bidya Bhushan Upadhayay (petitioner no.2) and Nihal Upadhayay had two days before told to teach a lesson. The informant suspected that the accused parsons might have killed his



niece and have thrown the dead body into the ponds.

Learned counsel for the petitioners submits that the petitioners and Mantu Upadhyay earlier moved for anticipatory bail in Cr. Misc. No. 6167 of 2014 and vide order dated 20.06.2014, a bench of this Court has granted anticipatory bail to the petitioners. The petitioners again filed a petition for modification of the order dated 20.06.2014 that one case bearing Barauli P.S. Case No. 162 of 2013 was mentioned in Para-3 of the bail petition, but the same was not mentioned in the order. And on such, the order was modified and petitioners were granted anticipatory bail. Once again the petitioners filed petition for modification of the order dated 20.06.2014 passed in Cr. Misc. No. 6167 of 2014 that Barauli P.S. Case No. 238 of 1996 was not mentioned as the same is pending against the petitioners. But the aforesaid modification petition was dismissed. The petitioners surrendered in the court below. Thereafter, regular bail was dismissed. Mantu Upadhyay has already been enlarged on bail. The case of the petitioners stands on the same footing as that of Mantu Upadhyay.

On the other hand, learned counsel for the informant opposed the prayer for bail and submitted that one complaint Case No. 635 of 2009 is pending against the



petitioners, but he has not mentioned this case in Para-3 of the bail petition.

On perusal of the records, it appears that except suspicion, there appears no tangible material against the petitioners. The petitioners were granted anticipatory bail vide order dated 20.06.2014 passed in Cr. Misc. No. 6167 of 2014, but some criminal cases are pending besides criminal cases mentioned in Para-3 of the bail petition and on that ground the modification filed by the petitioners was dismissed. Petitioners are in jail since 21.02.2017.

Considering the facts aforesaid and the fact that except suspicion there is no tangible material against the petitioners, the above named petitioners 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, Gopalganj in connection with Barauli P.S. Case No. 162 of 2013.

(Prabhat Kumar Jha, J)

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