

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6989 of 2017

Arising Out of PS.Case No. -505 Year- 2016 Thana -MARHAURA District- SARAN

- =====
1. Swapnil Prabhat @ Babu Sahab, Son of Late Ajay Singh @ Pappu Thakur
 2. Bijendar Thakur @ Bijendra Thakur, Son of Basudeo Thakur Both resident of Village-Nethua, P.O. Awari, P.S. Marhaura, District-Saran at Chapra.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. S.B.K. Mangalam, Advocate

For the Opposite Party/s : Mr. Kanhaiya Kishore, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

3 23-03-2017 Heard the learned counsel for the petitioners, the learned A.P.P. for the State as also the learned counsel for the Informant.

In this application for anticipatory bail the petitioners apprehend their arrest in connection with Marhaura P.S. Case No. 505 of 2016 for the offences punishable under sections 364, 302, 201 and 120 (B)/34 of the I.P.C.

Allegedly, the petitioners and other FIR named accused persons being armed with Lathi, Danda, Katta and Rifle etc. caught the brother of the informant and started dragging him which was opposed by the informant and then the co-accused



Sanjay Kumar Singh @ Tunna Thakur told to kill the informant at once and then the informant after leaving his motorcycle fled away to his house and narrated about the occurrence in the house. There upon the family members advised him not to go again there as his life is also in danger. In the night no villagers helped the informant due to fear and in the morning the informant and the villagers went near the Chimni and then near the culvert slipper and belt of brother of the informant were found and motorcycle was also traceless. Thereafter the dead body of brother of the informant was found in a canal. There was sign of injury on the body and it is alleged that Sanjay Kumar Singh @ Tunna Thakur was Mukhiya of Gram Panchayat, Salimapur and the deceased fought election against him resulting Sanjay Kumar Singh @ Tunna Thakur was defeated in the election and due to that they caused the occurrence.

Submission is of false implication and it is not possible that the grand father and grand son jointly will commit such offence even though the petitioner no.1, namely, Swapnil Prabhat @ Babu Sahab has got bright career and he has just graduated in Engineering but in order to finish his career he has been dragged in this case, the deceased was a man of questionable character and he is accused in serious offences, the dead body was



recovered within the jurisdiction of Baniyapur Police Station but Baniyapur Police was not informed due to the reasons best known to the informant, the occurrence is of 04.11.2016 at about 7-45 P.M. but the fardbeyan has been recorded on 05.11.2016 at 3 P.M., the police got information and reached at the place of occurrence at 4 AM itself, the dead body was brought by the informant and others at their house, only due to enmity the petitioners have been implicated, the petitioner no.1 is the nephew of Sanjay Kumar Singh @ Tunna Thakur, there is no specific allegation against the petitioners, the petitioners have got no criminal antecedents and as such they deserve sympathetic consideration.

The learned A.P.P. duly assisted by the learned counsel for the informant opposes prayer for pre-arrest bail of the petitioners by submitting that prayer for pre-arrest bail of five co-accused, namely, Raj Kumar Tiwary, Anil Singh, Munna Kumar Singh, Ram Sewak Singh and Sanjay Kumar Singh @ Tunna Thakur have already been rejected by the co-ordinate Bench of this Court and the case of the petitioners is similar to those co-accused. The informant is an eye witness regarding kidnapping of his brother and thereafter his dead body was recovered. The deceased was killed after throttling and thereafter he was thrown



in the water of Canal.

In the facts and circumstances as stated above, considering that prayer of pre-arrest bail of similarly situated co-accused has been rejected by another co-ordinate Bench of this Court and as such considering the allegation made in the FIR, I do not find it a fit case for grant of privilege of pre-arrest bail to the petitioners and accordingly their such prayer is hereby rejected in connection with the aforementioned case pending in the court of A.C.J.M.-II, Saran at Chapra.

However, the petitioners may surrender before the court below and pray for regular bail and if any such application is filed, the same will be considered by the court below, on the same day, on the merit of the case, without being prejudiced by the order of this Court.

(Jitendra Mohan Sharma, J)

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