

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 26180 of 2017

Arising Out of PS.Case No. -52 Year- 2017 Thana -ARA MUFASSIL District- BHOJPUR

- =====
1. Sunil Sah, son of Late Janki Sah.
 2. Rubi Devi, Wife of Sunil Sah, Both Resident of Village- Shubh Karan Ganj, P.S. Ara Mufassil, District- Bhojpur.
 3. Ayodhya Sah, son of Late Suryabali Sah.
 4. Ganesh Sah, son of Ayodhya Sah, Both resident of Village- Kauria, P.S.- Bihta, District- Patna.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar Pandey and Mr. Prabhat Kumar Dipak, Advocates
For the State	:	Mr. Abhay Kumar No. 1, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 01-07-2017

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

2. The petitioners apprehend arrest in Ara Mufassil P.S.
Case No. 52 of 2017 dated 18.03.2017 instituted under Sections
364/34 of the Indian Penal Code.

3. The allegation against the petitioners is of abducting
the son of the informant and killing him.

4. Learned counsel for the petitioners submitted that the



complaint case was filed in January, 2017, which was referred to the concerned police station for lodging an F.I.R. by the Chief Judicial Magistrate resulting in the institution of the present case. It was further submitted that in the complaint case itself, the date of the incident is mentioned as 03.05.2016, but the complaint has been filed after almost seven months for which there is no explanation. Learned counsel submitted that the petitioner no. 1 and the complainant are full brothers and earlier in the year 2015, the daughter of the petitioner no. 1 was taken away by the son of the informant for which he had lodged Ara Mufassil P.S. Case No. 273 of 2014, in which the son of the informant was arrested and only to take revenge, the present case has been instituted. Learned counsel submitted that from the reading of the *fardbeyan*, it would be clear that the same is absurd inasmuch as it has been stated that after the son of the informant came out from jail, the petitioners had called him for settlement. It was submitted that once there is an enmity between the parties, there was no occasion for the son of the petitioners to accompany them alone and further if the son of the informant was missing since 03.05.2016, lodging of a complaint case in January, 2017 clearly discloses that such is not a fact as it cannot be expected that a father, whose son is missing for 7 months would sit idle and not take immediate steps and that too lodge a complaint case. Learned counsel



submitted that the said case has been lodged only in retaliation measure to take revenge from the petitioners for having lodged the earlier case against the son of the informant. It was further submitted that the petitioners have no criminal antecedent.

5. Learned A.P.P. submitted that there is allegation of abduction of the son of the informant.

6. Considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners be released on bail upon 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, Bhojpur, Ara in Ara Mufassil P.S. Case No. 52 of 2017, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

7. The petitioners and the bailors shall execute bond with regard to good behaviour of the petitioners. The petitioners shall also give an undertaking to the Court that they shall not indulge in any criminal activity. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of their bail bonds. The petitioners shall cooperate in the trial and be present before the Court on each and every date. Failure to



cooperate or appear on two consecutive dates, without sufficient cause, shall also lead to cancellation of their bail bonds.

(Ahsanuddin Amanullah, J.)

P. Kumar

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