

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44004 of 2016

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

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1. Nirshan Sah Son of Late Babulal Sah
2. Wakil Sah Son of Late Ram Sanjiban Sah, Both are residents of Village -
Sahtha, Nidyamatpur, P.S. : - Bhagwanpur, District - Vaishali at Hajipur.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad, Advocate

For the Opposite Party/s : Smt Indu Kumari Srivastava, APP

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

5 10-01-2017 Heard learned counsel for the petitioners and learned
APP for the State.

The petitioners are apprehending their arrest in
Bhagwanpur P.S. case No.29 of 2016 registered under Sections
364, 302 and 201/34 of the Indian Penal Code, pending before the
court of Chief Judicial Magistrate, Vaishali at Hajipur.

Allegation is that the accused persons including the
petitioners abducted the brother of the informant and killed him.

It has been submitted on behalf of the petitioner that
there is no allegation of tampering of witnesses alleged against the
petitioners. The petitioners have falsely been implicated in the
present case. There is no eye witness to the commission of



murder. It is a case of accident. There is enmity between both the parties. The other co-accused have been granted anticipatory bail by the Co-ordinate Bench of this Court.

On behalf of the State, it is submitted that the petitioners are named in the F.I.R. There is specific allegation of abduction alleged against the petitioners. Section 106 of the Evidence Act has not been considered by the Co-ordinate Bench while considering the anticipatory bail application of the other co-accused. The onus is upon the defence to explain the cause of death of the deceased.

Considering the aforesaid facts and circumstances, I am not inclined to extend the privilege of anticipatory bail to the petitioners. Prayer for anticipatory bail is rejected.

Anyhow if the petitioners surrender in the court below within a period of six weeks from today, the same shall be considered on its own merit without being prejudiced by this order.

(Sudhir Singh, J)

Narendra/-

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