

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6089 of 2018

Arising Out of PS.Case No. -1718 Year- 2012 Thana -WEST CHAMPARAN COMPLAINT
District- WESTCHAMPARAN(BETTIAH)

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1. Harilal Sah, son of Late Kanchan Sah.
 2. Mritunjay Mishra @ Mritunjay Kant Mishra, son of Late Rajendra Mishra.
 3. Naiyar Sultan @ Sk. Jabbir, son of Late Serajul Hak.
 4. Pradeep Sah, son of Harilal Sah.
 5. Sunil Sah, son of Harilal Sah.
 6. Sushil Sah, son of Harilal Sah.
 7. Motichand Sah, son of Birjan Sah.

All resident of village- Mahuawa Bishnupurwa, P.S.-Shikarpur,
District- West Champaran.

.... Petitioners

Versus

1. State of Bihar
2. Rita Devi, wife of Late Vindeshwari Yadav, resident of village- Mahuawa Bishunpura, P.S.-Shikarpur, District- West Champaran.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Satyavrat Verma, Advocate
For the Opposite Party/s : Mr. Mrityunjaya Kr. Gautam, APP

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 02-02-2018 Heard learned counsel for the petitioners and learned
counsel for the State.

In this case, the petitioners are seeking anticipatory bail in connection with Shikarpur P.S. Case No.35 of 2011, registered for the offence punishable under Sections 302, 201 and 120B of the Indian Penal Code, giving rise to Complaint Case No.1718C of 2012.



Before the complaint was instituted an F.I.R. No.35 of 2011 for the offence punishable under Sections 302, 201 and 120B of the Indian Penal Code was lodged against the petitioners, making a statement that the accused persons came to the house of the informant and gave a call to her husband, requested him to go along with him. Where-upon, the husband of the informant has gone along with them, but he did not return. Later on, his dead body was recovered, led to institution of criminal case, but the police after investigation submitted the final form in favour of the petitioners based on the post mortem report. Whereafter, the informant has filed protest-cum-complaint petition against the petitioners. The Court below after examining the solemn affirmation including the evidence of other witnesses took cognizance in the matter.

As per the petitioners after the cognizance they have moved before this Court under Section 482 of the Criminal Procedure Code for quashing the cognizance, in which stay was granted. Whereafter, they moved before the Court below for anticipatory bail, which has been rejected and thereby he submits that there was no undue delay in approaching this Court as the cognizance has been taken in the year 2014 and thereafter the petitioners have moved before this Court under Section 482 of the



Criminal Procedure code for quashing of the cognizance, in which stay was granted. So far the merit of the case is concerned, the wife of the deceased has given statement that all accused persons came and took her husband but her husband did not return.

Learned counsel for the petitioner has placed reliance on the post mortem report, on that strength he submits that it was not an unnatural death but it was a natural death.

On perusal of the post-mortem report, it appears that there was blue mark in the neck of the deceased and there is sufficient material to hold that death was caused due to external force, but not showing it was a natural death.

Looking to the nature of allegation, this Court is not inclined to grant anticipatory bail to the petitioners. Accordingly, the prayer for bail is rejected.

(Shivaji Pandey, J)

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