

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.68127 of 2018

Arising Out of PS. Case No.-128 Year-2016 Thana- LAUKAHA District- Madhubani

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1. Julekha Khatoon @ Jalokha Khatoon Wife of Late Birbal.
 2. Md. Tahir Son of Md. Ishaque
 3. Nazmoon Khatoon
 4. Saiful Khatoon Both Daughters of Late Md. Birbal, All Residents of Village- Patharahi, P.S. Laukaha, District- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Baleshwar Kamat

For the Opposite Party/s : Mr. Rajendra Singh Shastriji

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 18-12-2018 Heard learned counsels for the parties.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 498A and 364/34 of the IPC.

The prosecution case as per the written report of Md. Ahmad submitted to the SHO, Laukaha Police Station is to the effect that the informant's daughter Lakho Khatoon's marriage was performed with Md. Kismat about 14 years prior to the lodging of the FIR. Consequently, the couple were blessed with a son and a daughter. About 25 days prior to the lodging of the case, the informant came to meet his daughter to her in-law's place, where her mother-in-law Julekha Khatoon conveyed that the daughter of the



informant had left the in-law's house while conveying that she is going to her parent's house. The informant conveyed that she had not reached his house yet, and he started searching for his daughter but did not find her. Hence, suspicion was raised that the entire in-laws family members have killed the deceased. The petitioners are mother, neighbour, married and un-married sister of the husband of the deceased.

It is submitted by learned counsel for the petitioners that the thrust of accusation is against the husband of the victim. On recovery of a dead body, chowkidar lodged a case being Phulparas P.S. Case No. 272 of 2018 against unknown and in that case, name of the petitioners has not sprang up. The present FIR has been registered with an inordinate delay. It is further submitted that the dead body has still not been identified since it is claimed by the informant and the accused persons that the victim left the matrimonial house about a month prior to the lodging of the case, when on the other hand, the post mortem report suggests that the deceased was killed only a few days prior to the recovery of the dead body. Hence, only on suspicion, the accusation has been levelled, without there being any



eye witness.

Learned APP submits that though there is no eye witness to the occurrence but suspicion has been raised against the in-law family members because torture had been inflicted by them upon the deceased. However, the DNA report is still not on record.

It appears that the case diary was called vide order dated 19.11.2018 and the case diary is recorded up to 5.5.2018 which reflects that the impugned order has been passed without applying the judicial mind and it also reflects the callous manner in which the office of the Superintendent of Police, Madhubani is functioning.

Considering the nature of accusation based on suspicion, and the fact that the learned Sessions Judge rejected the prayer for anticipatory bail when it was submitted that steps have been taken for matching the DNA of the victim with that of her parents, moreover, the case diary does not reflect that the sample for DNA matching has been collected and sent to the concerned laboratory for matching, let the petitioners above named be released on anticipatory bail in the event of arrest or surrender within 12 weeks on furnishing bail bond of Rs.10,000/- (ten



thousand) each with two sureties of the like amount each to the satisfaction of the learned ACJM II, Jhanjharpur, Madhubani, in connection with Laukaha P.S. Case No. 128 of 2016 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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