

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25995 of 2018

Arising Out of PS.Case No. -304 Year- 2017 Thana -
LAKHISARAI District- LAKHISARAI

=====

1. Tejbeer Tyagi, S/o Sangharsh Kumar Singh,
2. Chhotu Kumar @ Samarbeer Tyagi @ Chhotu S/o
Sangharsh Kumar Singh, Both are R/o Vill.- Lodia, P.S.-
Lakhisarai, District- Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Arun Kumar

For the Opposite Party/s : Mr. Sri Amrendra Prasad

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 18-05-2018 The petitioners seek bail in connection with Lakhisarai
P.S. Case No. 304 of 2017 dated 05.08.2017 instituted for
the offences under Sections 302/34 of the Indian Penal Code.

Before discussing the merits of the case, I must state
that the learned Court below who has rejected the bail has
adopted a queer way of writing the order. He has not
discussed any material from the case diary and has wound up
the order by saying that he has considered the rival
contentions of the parties and on perusal of the case diary,
he found that the witnesses have supported the allegation.
This is not the way of disposing of a bail petition. A Judge
hearing the bail petition is required to record in brief,



materials against the petitioner and why his application for bail is being rejected. Such description of the material and evidence may not be very elaborate but such a cavalier approach ought not to be adopted by any Court of law.

The informant, who is the father of the deceased has alleged in the F.I.R that his 17 years old son who had gone out of the house to attend to the call of nature, did not return. Later, he was informed by a co-villager that dead body of a boy is lying in the field. When the informant went there, he saw the dead body of his son. Because his son used to visit the shop of one Bhadai Tanti and with whom the deceased was seen last, it was suspected by the informant that perhaps aforesaid Bhadai Tanti with his two associates might have killed the deceased. On the basis of the aforesaid statement, subject F.I.R was registered for investigation.

After about 15 days of the lodging of the F.I.R, a petition was filed by the informant stating that he had wrongly named Bhadai Tanti and two unknown persons in the F.I.R. He has stated that he secretly learnt that the petitioners, who are brothers amongst themselves have killed the deceased. The reason for killing the deceased is that the deceased had earlier protested against the stalking of his cousin by the petitioners. On the day of the occurrence, the informant was told, the deceased had a fight with the



petitioners. On the basis of the aforesaid statement made by the informant, the petitioners were arrested on 09.03.2018.

Mr. Arun Kumar, learned counsel for the petitioners has submitted that such statement having been made by the informant after 15 days of the occurrence is without any basis. The informant has not disclosed the source of such information and has made that statement only on the basis of some information having been provided to him. That apart, it has been submitted that during the entire course of investigation, no independent person has come to support the aforesaid factum of the petitioner No. 1 stalking the niece of the informant. Nobody has also seen the occurrence of killing the deceased. One of the brothers of the informant who had also earlier made statement that he had seen the deceased taking tea at the shop of Bhadai Tanti along with two other unknown persons, has made a summersault and has stated that petitioners have killed the deceased. On what basis was such statement made is absolutely unknown. The case is, therefore in the realm of pure suspicion.

The learned counsel for the petitioners has also submitted that suspicion is a sea without a shore and any person taking a voyage in the aforesaid sea is left without radar and a compass.

Regard being had to the nature of accusation against



the petitioners and the period of custody, the petitioners, above named are directed to be released on bail on furnishing bail bonds of Rs. 10,000/-(ten thousand) each with sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Lakhisarai in connection with Lakhisarai P.S. Case No. 304 of 2017.

(Ashutosh Kumar, J)

Shageer/-

U		T	
---	--	---	--

