

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39641 of 2018

Arising Out of PS.Case No. -5 Year- 2018 Thana -UJIYARPUR District- SAMASTIPUR

- =====
1. Santosh Sah son of Kamindera Sah @ Dhodhai Sah
 2. Akhilesh Shah son of Mahendra Shah Both resident of Dhamkaul
(Bardhia Chowk), P.S. Patepur, District- Vaishali.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 07-09-2018 Heard learned counsel for the petitioners and learned
APP for the State.

Petitioners are languishing in judicial custody since
05.03.2018 in connection with Ujiyarpur P.S. Case No. 5 of 2018
for offences punishable under Sections 307/323/325/341/34 of the
Indian Penal Code. Later on Section 302 of the Indian Penal Code
has been added.

The prosecution case, as lodged by the informant, is
that his daughter Radha Devi was married to the petitioner no. 1,
4-5 years back but due to constant fighting, she came to her
parental house since one and half years along with a three year old
son. The petitioner no. 1 used to come to his sasural to visit the



deceased Radha Devi and on 09.12.2017 he called the daughter of the informant to a lonely place and strangled her. On search she was found in the Jungle. During course of treatment she did not regain consciousness and succumbed. Petitioner no. 2 has also been named in the F.I.R. to be along with the petitioner no. 1.

It has been submitted by the learned counsel for the petitioners that they are innocent, bear no criminal history and have been falsely implicated in the aforesaid case. He submits that in 2016 itself the petitioner no. 1 had given an affidavit before the notary that he was living separately and had also filed a divorce case no. 175 of 2016 before the Principal Judge, Family Court, Vaishali (Hajipur). He submits that there is no eye-witness to the alleged occurrence and that charge-sheet has already been submitted and there is no allegation of tampering of the prosecution witnesses.

However, learned APP for the State opposes the prayer for bail stating therein that as per the case diary two independent witnesses at para 16 and 17 have stated that while the deceased Radha Devi was living in her parental house, the petitioner no. 1 used to come and visit.

Considering the facts and circumstances and the materials on record, let petitioner no. 2, above named, be enlarged



on bail on furnishing bail bonds of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Samastipur, District-Samastipur, in connection with Ujiyarpur P.S. Case No. 5 of 2018, subject to the conditions that:

- (1) One of the bailors would be a close relative of the petitioner having sufficient immovable property, who will file an affidavit stating his relationship with the petitioner.
- (2) Petitioner will appear before the learned court below during trial as and when required and failure to appear on two consecutive dates without assigning any reason will entail cancellation of his bail bonds.

So far as the petitioner no. 1 is concerned, his prayer for bail is rejected at this stage in connection with Ujiyarpur P.S. Case No. 5 of 2018, pending in the court of learned Additional Chief Judicial Magistrate, Samastipur, District-Samastipur.

However, the petitioner no. 1 is at liberty to renew his prayer for bail after framing of charge.

(Nilu Agrawal, J)

Devendra/Priyanka

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