

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3098 of 2019

Arising Out of PS. Case No.-452 Year-2018 Thana- SARAIYA District- Muzaffarpur

1. Usha Devi and Anr Sanjay Kumar Suman resident of village - Paroha, P.S.- Kathaiya, P.S.- Kathaiya, District- Muzaffarpur.
2. Sabita Devi, Pramod Ram, resident of village- RamchandraPur, P.S.- Deoria, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State Of Bihar .

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Yugal Kishore

For the Opposite Party/s : Mr.Sanjay Kumar Tiwary

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 27-02-2019 Heard the learned counsel for the petitioners and the
learned counsel for the State.

The petitioner seeks regular bail in connection with Saraiya PS case no. 452 of 2018 registered for the offence punishable under Sections 302, 307 and other sections of Indian Penal Code.

The case of the prosecution in brief is that on 02.10.2018 at about 1 pm in the afternoon, co-accused person namely Sunil Ram along with 19 named accused persons and 10 to 15 unknown accused persons armed with *lathi*, *bhala* and *farsa* in their hands, came to the place of occurrence with the intention of dispossessing the informant of his validly and



legally purchased land. The deceased Ajay Kumar Ram and Sarsawati Devi had then gone there to inquire into the matter, however the accused persons started assaulting the son of the informant and some of the accused persons including the petitioners herein, had tied rope in the neck of the deceased Sarsawati Devi and thereafter, they started dragging her. The villagers are then said to have raised alarm whereupon the co-villagers had come there but the informant and his son were being assaulted by the co-accused person namely Suresh Ram by *farsa* as also by other accused persons by *lathi*. The accused persons are then said to have engaged in assaulting the members of the prosecution side resulting in infliction of injuries on the members of the prosecution party.

The learned counsel for the petitioners has submitted that the statement of the injured Vijay Kumar has been recorded by the police and he has not named the petitioners herein to have tied rope in the neck of the deceased Sarsawati Devi, however the said witness has named the co-accused Suresh Ram to have tied rope in the neck of the said deceased Sarsawati Devi and upon the rope having been pulled by the said Suresh Ram, Sarsawati Devi died instantaneously. It has further been submitted that the petitioners are married



daughters who are living at their *sasural*, hence have nothing to do with the alleged incident but still they have been implicated at the instance of the informant Banshi Ram. It is further submitted that the petitioners are having clean antecedent and are languishing in custody since 02.10.2018.

Per contra, the learned counsel for the informant has submitted that the informant has categorically named those accused persons including the petitioners herein who have put rope in the neck of the deceased Sarsawati Devi and dragged her resulting in her death on account of the resultant injury, hence the petitioners herein should not be granted the privilege of regular bail.

I have heard the learned counsel for the parties and perused the materials on record and I find that in para 6 of the case diary, the statement of the injured Vijay Kumar has been recorded, wherein it has been stated that the co-accused person namely Suresh Ram had put the rope in the neck of the Sarsawati Devi and pulled the same resulting in the instant death of Sarsawati Devi, thus a contradictory statement has been made by the members of the prosecution side. In any view of the matter, a general and omnibus allegation has been levelled against the petitioners herein, even if the contents of the F.I.R.



are to be taken on its face value, hence considering the materials available in the case diary and the aforesaid submissions made by the learned counsel for the petitioners, this Court deems it fit and appropriate to direct for release of the petitioners on regular bail.

Accordingly, the abovenamed petitioners are directed to be enlarged on regular bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned A.C.J.M. 1st (W), Muzaffarpur in connection with Saraiya PS case no. 452 of 2018.

(Mohit Kumar Shah, J)

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