

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16695 of 2019

Arising Out of PS. Case No.-179 Year-2007 Thana- BIBHUTIPUR District- Samastipur

1. SAROJ KUMAR THAKUR @ SAROJ THAKUR, Son of Hari Thakur
2. Naresh Jha @ Ram Naresh Jha, Son of Kantu Jha
Both Resident of Village - Dharpura, P.S.- Mansurchak, P.O.- Samsa-851128, Distt.- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shivnandan Pd. Singh, Adv.

Mr.Naresh Nandan, Adv.

For the Opposite Party/s : Mr.Damodar Prasad Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 28-03-2019 Heard learned counsel for the petitioners and learned
APP representing the State.

Petitioners are seeking anticipatory bail in connection with Bibhutipur P.S. Case No. 179 of 2007 registered for the offences punishable under Sections 147, 148, 149, 323, 337 and 302 of the Indian Penal Code.

Learned counsel for the petitioners submits that on perusal of Annexure-1 of the present writ application it will appear that this police case was registered on the basis of a complaint petition filed by brother of the victims on 10.10.2007 in respect of the alleged occurrence which had taken place on 02.10.2007. It is submitted that in the complaint petition no role



whatsoever has been assigned to these petitioners in the matter of killing of the brother. Learned counsel further submits that on perusal of the FIR, arising out of a complaint petition, it would appear that the informant was called upon to identify the dead bodies which were recovered by the police on 03.10.2007. The informant had identified the dead bodies, but then he chose to file a complaint only on 10.10.2007. Prior to that on 02.10.2007 police had registered one Unnatural Death (U.D.) Case No.13 of 2007. Learned counsel submits that after investigation police had submitted final form but then on 18.04.2013 the learned Magistrate differed with the police report and took cognizance of the offence as stated above.

Learned counsel further submits that there was no service of summon upon the petitioners and it is only recently on 18.09.2018 non-bailable warrant of arrest has been issued against the petitioners.

Learned APP for the State is present and has opposed the prayer for anticipatory bail by referring to some of the observations made in the impugned order of the learned Sessions Judge. Learned APP is, however, unable to demonstrate from the records that there is any specific allegation against these petitioners.



Considering the facts and circumstances of the case, the submissions of the petitioners which have been taken note of hereinabove, the delay in lodging of the FIR by this informant and the fact that police had earlier found no material to proceed against the petitioners and had submitted a final report, in case of arrest or surrender of the petitioners within a period of four weeks from today, the abovenamed petitioners shall be enlarged on bail on furnishing bail bond of Rs.15,000/- (rupees fifteen thousand) each with two sureties of the like amount each to the satisfaction of the learned A.C.J.M.-1st, Rosera, District-Samastipur in connection with Bibhutipur P.S. Case No. 179 of 2007, subject to the condition prescribed under Section 438(2) of the Cr.P.C.

(Rajeev Ranjan Prasad, J)

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