

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.63536 of 2018

Arising Out of PS. Case No.-708 Year-2018 Thana- AHIYAPUR District- Muzaffarpur

1. Rajnish Kumar
2. Ratan Kumar,
Both Sons of Birrendra Sahani,
Both resident of Village- Dadar Kolhua Paigambarpur, P.S.- Ahiyapur,
District- Muzaffarpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Advocate
Mr. Dilip Kumar Roy, Advocate
Mr. Diwakar Prasad Karn, Advocate
Mr. Chandra Shekhar Anand, Advocate
For the Opposite Party/s : Mr. Amitesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 21-02-2019 Heard learned Senior counsel for the petitioners and
learned APP for the State.

The petitioners are apprehending their arrest in a case registered for the offences punishable under Sections 365 and 367/34 of the Indian Penal Code. Subsequently, Sections 302, 201 and 120B of the IPC were also added.

The prosecution case as per the written report of Shashi Kumar Sahni submitted to the Station House Officer of Ahiyapur Police Station on 03.07.2018 is to the effect that on 02.07.2018 at 5.00 P.M., the father of the informant, Bijli Sahni went in the company of co-accused Uma Shankar Sahni @ Lagra, Harishchandra Sahni and one unknown person to



Minapur but he did not return, when the informant rang up on his mobile phone it was found switched off, leading to registration of the FIR against co-accused Uma Shankar Sahni, Harishchandra Sahni and one unknown. Subsequently, on the next day the dead body of the father of the informant was recovered and thereafter the fardbeyan of the wife of the victim and statement of elder brother of the victim were recorded wherein they have stated that the victim left the house in company of ten persons including the petitioner.

It is submitted by learned Senior counsel for the petitioners that the petitioners are not named in the FIR and in the statement of the wife of the victim has been levelled as fardbeyan though it ought to have been levelled as statement under Section 161 Cr.P.C.. However, the victim's wife and the elder brother only raised suspicion against the petitioners also. It is further submitted that the statement of the informant, being the son of the victim, being First Information Report alleges specific accusation against three persons and any statement levelling accusation against others subsequent to registration of FIR amounts to developing the prosecution case. However, no substantial material has been collected during investigation against the petitioners. A statement has been made in paragraph



3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP after going through the case diary submits that the wife and elder brother of the victim have named 10 persons including the petitioner, in whose company the victim left the house but there is no eye witness to the alleged occurrence.

Considering the suspicious nature of accusation coupled with the statement made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent, let the above named petitioners be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Muzaffarpur in connection with Ahiyapur P.S. Case No. 708 of 2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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