

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44578 of 2019

Arising Out of Case No.-416 Year-2018 COMPLAINT CASE District- Lakhisarai

-
1. SHIV DAYAL YADAV Son of Rameshwar Yadav Resident of Village- Sighchak, Police Station- Chanan, District- Lakhisarai.
 2. Mantu Saw Son of Pairu Saw Resident of Village- Sighchak, Police Station- Chanan, District- Lakhisarai.
 3. Ravi Saw Son of Krishnadeo Saw Resident of Village- Sighchak, Police Station- Chanan, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Milli Kumari @ Milli Devi Wife of Nand Kishore Kumar Resident of Village- Sighchak, Police Station- Chanan, District- Lakhisarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Dharmendra Kumar Raju
For the State	:	Mr.Surendra Kumar
For the Informant	:	Mr. Jainendra Kumar

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 22-07-2019 Heard both sides.

The petitioners apprehend their arrest in Complaint case No. 416(C) of 2018 for the offences allegedly committed by the petitioners under Section 302, 201, 34 of the IPC.

The complainant alleged that her husband has come to his house but on 04.12.2017 the petitioners persuaded her husband to participate in a Shradh ceremony. Her husband was reluctant but the petitioners forcibly took him. Her husband did not return. The complainant alleged that petitioners killed her husband and threw his dead body.

The learned counsel for the petitioners submits that the occurrence took place on 04.12.2017. Arun Kumar, own brother of the deceased, got his fard bayan recorded and



disclosed that on 04.12.2017 his brother left his house and went to village Belouri to attend shradh ceremony of Late Kedar Yadav at about 9 in the night. His brother left village Belouri on motor cycle but on account of imbalance of the motor cycle his brother fell down in a ditch situated by the side of road. On such an U.D. case was registered on 05.12.2017. It is further submitted that on 11.12.2017 the complainant lodged Chanan P.S. case No. 143 of 2017 alleging therein that petitioners forcibly took her husband and killed him and after killing her husband threw the dead body in a ditch but the police after investigation submitted final form finding the accusation false and it was found that the death was accidental one. The learned court below accepted the final form but the case proceeded on protest. There is no material on record to show that petitioners killed the husband of informant and the I.O. after perusal of post mortem report and other materials on record found the accusation untrue and submitted report that Nand Kishore died in a motor accident. There is no new material but mere on assertion of the complainant prima facie case under Section 302 was found to proceed against the petitioners. It is submitted that petitioners deserve anticipatory bail.

The learned A.P.P. as well as the learned counsel for the complainant vehemently opposed the prayer for anticipatory bail and submitted that police without making thorough investigation submitted final form. The informant gave petition before the D.I.G. only thereafter the case was registered.

Having considered the facts, it appears that on the next day of accident the brother of the deceased gave fard bayan disclosing that his brother met with an accident and fell in a ditch situated by the side of road in which his brother died. Only



after a week the informant, wife of the deceased, lodged the case with a different story. The informant is not an eye witness of the occurrence. The police after investigation submitted final form finding the accusation false but the case proceeded on protest.

Considering the facts aforesaid and nature of allegation made against the petitioners, the petitioners, above named, in the event of their arrest/ surrender before the court below within a period of four weeks from the date of receipt/ production of a copy of this order are directed to be enlarged on bail on their furnishing bail bond of Rs. 10,000/- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Lakhisarai in connection with Complaint case No. 416(C) of 2018, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

BKS/-

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

