

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54092 of 2019

Arising Out of PS. Case No.-116 Year-2018 Thana- KHAJAULI District- Madhubani

1. Bhagwan Jee Jha, S/o Sri Amarnath Jha,
 2. Bibhuti Jha @ Bibhuti Kumar Jha, S/o Sri Ashok Kumar Jha, both R/o village- Benta Karkarghati, P.S.- Khajauli, District- Madhubani
- Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Pravin Kumar, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the informant	:	Mr. Shaialendra Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 27-11-2019

Heard learned counsel for the petitioners; learned APP for the State and learned counsel for the informant, who has *suo motu* appeared.

2. The petitioners apprehend arrest in connection with Khajauli PS Case No.116 of 2018 dated 07.07.2018 instituted under Sections 302, 201/34 of the Indian Penal Code.

3. The allegation against the petitioners and others is of killing the father of the informant by strangulating him with wire.

4. Learned counsel for the petitioners submitted that the entire family members have been made accused and they reside across the road to the house of the informant. It was



submitted that in the First Information Report, the allegation is that there was land dispute, but in the re-statement the informant has stated that about 10-12 days prior to the incident there was altercation with regard to use of the passage and the deceased had been assaulted by the father of the petitioner no. 2, who also tried to strangle him. Learned counsel submitted that no complaint anywhere has been lodged with regard to such incident. Learned counsel also drew attention of the Court to the fact that in the First Information Report, it has been mentioned that at 9.00 PM on the date of occurrence the deceased was talking to his brother, who had come from Haryana, and at 10 o'clock it is alleged that the informant and other family members went looking for him. Learned counsel submitted that the prosecution has falsely implicated the petitioners and his family members ostensibly on the so called confession made by them before the police. It was submitted that in the incident also the sequence is that at 10.00 PM the deceased was abducted from his house. Learned counsel submitted that such confessional statement cannot be reconciled with the statement made either in the First Information Report or the re-statement of the informant for the reason that if at 9.00 PM the deceased was talking to his brother and had not had dinner and at 10.00 PM



the informant and others started looking for him, it is obvious that everybody was awake in the house of the informant and the deceased being abducted from his house does not appear to be convincing. It was further submitted that when admittedly there is dispute of use of the passage between the parties, it is unthinkable that the petitioners themselves would commit the act of murder.

5. Learned APP and learned counsel for the informant, from the case diary, submitted that in the confessional statement, the father of petitioner no. 2 has admitted to have committed the crime along with the petitioners. Learned counsel for the informant submitted that recently, after the incident in question, the accused have also committed *dacoity* in the house of the informant.

6. Considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within four weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs.25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the ACJM-III, Madhubani, in Khajauli PS Case No.116 of 2018, subject to the conditions laid down in Section 438(2) of the Code of



Criminal Procedure, 1973, subject to the condition that the petitioners and the bailors shall execute bond with regard to good behaviour of the petitioners. The petitioners shall also give an undertaking to the Court that they shall not indulge in any criminal activity. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of their bail bonds. The petitioners shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of their bail bonds.

7. The application stands disposed off.

(Ahsanuddin Amanullah, J)

J. Alam/-

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