

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56297 of 2019

Arising Out of PS. Case No.-67 Year-2019 Thana- VIJAYEPUR District- Gopalganj

1. Sarvesh Gupta, S/o Rudal Gupta, R/o Village- Pharusaha, P.S.- Vijaipur, District- Gopalganj
2. Akhilesh Gupta @ Akhilesh, S/o Rudal Gupta, R/o village- Pharusaha, P.S.- Vijaipur, District- Gopalganj
3. Yasvant Gupta @ Yashwant Gupta, S/o Rudal Gupta, R/o village- Pharusaha, P.S.- Vijaipur, District- Gopalganj

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioners	:	Mr.Lokesh Kumar Singh, Advocate
For the S t a t e	:	Mr. Mithlesh Kumar Khare, APP
For the Informant	:	Mr. Nityanand Mishra, Advocate

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 23-10-2019 Heard learned counsel for the petitioners and the learned counsel appearing on behalf of the State. Learned counsel for the informant is also present.

The petitioners are in custody since 08.05.2019 in connection with Vijaipur P.S. Case No.67 of 2019 registered for the offence under Sections 354B and 302 of the Indian Penal Code and Section 8 of the POCSO Act.

Learned counsel for the petitioners submits that entire allegation against the petitioners and their family members is false and concocted and, in fact, it is a case of honour killing. It is further submitted that the victim girl had



either committed suicide or had been hanged to death and the story that she was attacked in the field is wholly frivolous and concocted to cover up their own lapse. Learned counsel for the petitioners further submits that there was a love affair between one of the brothers of the family and the victim girl and the informant's side, in fact, attacked them, for which they had gone to the Thana to file a report and the petitioners had been arrested from the Thana itself. It is thus submitted that there being a distinct cloud in the prosecution story, the petitioners may be extended the privilege of bail.

Learned counsel appearing on behalf of the informant, however, stiffly resists the present bail application and submits that the victim girl had gone to attend the call of the nature in the early hours of the morning and these three brothers had tried to molest her and had strangled her with her *Dupatta*. Learned counsel submits that such an act is but a heinous offence and the petitioners do not deserve the privilege of bail. It is further submitted that the three brothers together had conspired to kill the girl as they were being falsely implicated and one of the brothers was alleged to be having an affair, which was completely false and therefore, they had chosen to molest her in the early hours of the



morning and indulged in the said occurrence leading to her death. Learned counsel further submits that few of the witnesses by way of affidavit submitted that the allegation is wholly true and therefore the statement which have come in the diary are but concocted and made up by the police to cover up the lapses of the petitioners. It is further submitted that now the chargesheet has been submitted against these petitioners and they may not be extended the privilege of bail.

Diary in the present case was called for, which has since been received.

Learned counsel for the State after perusal of the case diary pointed out to certain paragraphs of the case diary wherein several of the witnesses have stated that they had heard hulla that she had committed suicide and had collected at her room and the body was brought down in their presence. It is further submitted by the learned counsel for the State that the post-mortem report also indicates that there is injury only on the front side of the neck and not on the back side and, therefore, the story that the girl was strangulated with her *Dupatta* does not stand substantiated as there is no mark of injury on the behind of the neck of the deceased victim girl.

Considering the contradictory versions and there



being a distinct cloud on the prosecution story and that these petitioners are having clean antecedents, let the petitioners, above named, be released on bail on their furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Gopalganj, in connection with Vijaipur P.S. Case No.67 of 2019, subject to the following conditions:

(1) One of the bailors will be the father of the petitioners.

(2) The petitioners shall not indulge themselves in any similar offence till conclusion of the trial.

(3) The petitioners shall remain physically present in court on each and every date during trial and in the event of their failure on two consecutive dates without sufficient reasons, their bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioners shall co-operate with the investigation, if not already concluded, and make themselves available as and when so



required and in case of failure, the State shall be
at liberty to move for cancellation of bail.

(Anjana Mishra, J)

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