

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5668 of 2020

Arising Out of PS. Case No.-54 Year-2013 Thana- DORIGANJ District- Saran

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1. VISHWANATH RAI, Son of Late Baldeo Rai, Resident of Village - Jagdishpur, P.S.- Khaira, Distt.- Saran at Chapra.
 2. Prabhawati Devi, W/o Vishwanath Rai, Resident of Village - Jagdishpur, P.S.- Khaira, Distt.- Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nawal Kishore Singh, Adv.

For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

5 30-06-2020 Heard learned counsel for the petitioners and learned APP for the State.

The matter has been taken up through virtual Court proceeding.

The petitioners, being parents of the husband of the victim, have preferred the present application for grant of bail in a case registered for the offences punishable under Sections 302 and 201/34 of the Indian Penal Code, 1860.



The prosecution case as per the fardbeyan of Bhikhari Rai recorded by Deosaran Pathak, S.I. is to the effect that the informant's sister, Sarli Devi @ Sarita Devi was married with Jagmohan Rai, son of the petitioner in 2005. Thereafter, they were blessed with two children, but subsequently, torture was inflicted upon the victim and when the informant went to bring her sister back to her parents' house, he was being abused and assaulted by the in-laws' family members, including the petitioners. It is alleged that on 29.05.2013, when the informant went to the in-law's house of her sister, he was not allowed to meet her and was also abused. Subsequently, the informant came to know that her sister has been killed by the in-laws' family members and her dead body has been thrown into a river.

It is submitted by learned counsel for the petitioners that the accusation is omnibus and general. The petitioners along with co-accused, Nagendra Rai preferred Criminal Miscellaneous No.415 of 2013 with a prayer for anticipatory bail and the same was disposed of by a bench of this Court vide order dated 19.03.2014, in following terms :-

“4. Let petitioners surrender in the court below within a period of four weeks from the date of receipt/production of a copy of this



order in the court below and apply for regular bail, which should be considered in the light of the statement of the 6 years old girl child of the deceased. In the event, girl child has given the petitioners clean chit in her statement under Section 161 Cr.P.C., petitioners, named above, be admitted to the privilege of bail on furnishing bail bonds of Rs. 5,000/- (Rs. Five Thousand Only) each with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Saran at Chapra in connection with Doriganj P.S. Case No. 54/13, subject to the conditions as laid down under Section 438(2) Cr.P.C. In the event, statement of 6 years old girl child has not been recorded in the case diary, the court below will verify from the case diary whether informant was present at the time of cremation and if that be so then such aspect of the matter should be taken into account while considering the request of the petitioners for grant of bail. Until disposal of the bail matter, no coercive steps will be taken against the petitioners.”

In pursuance to the above quoted order the petitioners did



not surrender, however, co-accused, Nagendra Rai surrendered, but the learned Court below did not grant the privilege of bail since the required conditions were not available on record. Thereafter, said co-accused, Nagendra Rai preferred regular bail before this Court and was granted bail vide order dated 16.01.2015, passed in Criminal Miscellaneous No. 36939 of 2014, by a bench of this Court. Thereafter, vide judgment dated 18.10.2017, passed by learned 9th ADJ, Saran at Chapra, the husband of the victim, Jag Mohan Ram and co-accused, Nagendra Rai have been acquitted. It is further submitted that the petitioners were ready to be present in Court on each date, but under a *bona fide* mistake, they could not surrender. The petitioners are languishing in custody since 18.11.2019 and a statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP for the State submits that the petitioners were absconded for a considerable period. However, he admits this fact that the main accused, i.e., the husband of the victim has been acquitted.

Considering the fact that the husband being the main accused has been acquitted, the petitioners are languishing in custody for more than seven months, let the petitioners above



named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned CJM, Saran at Chapra, in connection with Doriganj P.S. Case No. 54 of 2013.

However, in view of the present pandemic, COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioners which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) each with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned CJM, Saran at Chapra, in connection with Doriganj P.S. Case No. 54 of 2013.

The learned Court below will further be at liberty to extend the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.

However, the learned Court below is at liberty to



cancel the bail bonds of the petitioners, if they defaults for two consecutive occasions.

Accordingly, the present application stands disposed of.

(Dinesh Kumar Singh, J)

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