

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5392 of 2020

Arising Out of PS. Case No.-376 Year-2019 Thana- SUGAULI District- East Champaran

SARFARAJ KHAN @ BHANU KHAN, S/o Kaluth Khan, Resident of
Village- Narkardei, P.S.- Sugauli, Distt- East Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No.6546 of 2020

Arising Out of PS. Case No.-376 Year-2019 Thana- SUGAULI District- East Champaran

TABREJ KHAN @ AFATAB KHAN, S/o Lalmahand Khan, Resident of
Village- Narkardei, P.S.- Sugauli, Distt- East Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

(IN BOTH CASES)

For the Petitioner/s : Mr.Patanjali Rishi

For the Opposite Party/s : Mr. Nawal Kishore Prasad

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

3 03-06-2020 Heard learned Counsel for the petitioners and learned
Additional Public Prosecutor for the State, through video
conferencing.

The petitioners seek regular bail in connection with
Sugauli Police Station Case No. 376 of 2019, registered for the
offences punishable under Sections 376/302/34 of the Indian
Penal Code.



The allegation against the petitioners is that in the night of 05.09.2019, the petitioners entered into the house of the deceased (daughter of the informant), where she was sleeping along with her four children, and finding her alone, the accused persons forced themselves in order to commit illicit relationship with her. Upon hulla, children of the deceased woke up and when the deceased resisted the petitioners, they strangled her with her own scarf (dupatta) and fled away.

Learned Counsel for the petitioners submits that the petitioners have falsely been implicated in this case and they have not committed any offence in the manner alleged. He further submits that on the basis of the confessional statement of the petitioner Tabrej Khan (paragraph 68 of the case diary), the petitioner Sharfaraj Khan has been implicated in this case. He submits that nobody from the family member (In-laws of the deceased) has lodged the First Information Report and it was the father of the deceased who has lodged the First Information Report after arriving at the place of occurrence from his village. He further submits that the statement of the son of the deceased, on whose information, the informant has lodged the present First Information Report, was not recorded by the police immediately after the occurrence; rather, it has been recorded by



the police after lapse of 59 days. He, thus, submits that the statement of the son of the deceased is tutored and cannot be relied upon.

On the other hand, learned Additional Public Prosecutor vehemently opposes the prayer for bail and submits that the earliest version of the incident was informed to the police by the informant on the basis of the description of the incident given by the son of the deceased immediately after the occurrence and the son of the deceased has made the same statement before the police, which has been recorded in paragraph 87 of the case diary, in which the son of the deceased has categorically stated that the petitioners have committed the murder of his mother by strangulating her by means of her scarf (dupatta). He further submits that the confessional statement made by the petitioner Tabrej Khan is supported by the statement made by the son of the deceased, who is an eye-witness to the occurrence.

After having heard learned Counsel for the parties and taking into consideration the materials available on record and the fact that the petitioners are named in the First Information Report and the son of the deceased has made statement, recorded in paragraph 87 of the case diary, that the petitioners



have committed the murder of his mother, I am not inclined to grant regular bail to the petitioners.

These applications are, accordingly, dismissed.

However, the petitioners may renew his prayer for bail after one year from today if the trial does not show any progress.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

U	✓	T	✓
---	---	---	---

