

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15250 of 2020

Arising Out of PS. Case No.-45 Year-2019 Thana- SAKSOHRA District- Patna

1. Pawan Kumar, Male, 26 years, Son of Dinesh Dhadhi, Resident of Village-Kritichak, P.S.-Bhadaur, District-Patna.
2. Lalan Kumar @ Lala, Male, 21 years, Son of Dinesh Dhadhi, Resident of Village-Kritichak, P.S.-Bhadaur, District-Patna.
3. Mukhia Kumar, Male, 24 years, Son of Mahendra Dhadhi @ Mahendra Dhadhi, Resident of Village-Kritichak, P.S.-Bhadaur, District-Patna.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sidhendra Narayan Singh
For the Opposite Party/s : Mr.Ajay Kumar Jha

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 11-09-2020 Heard Mr. Sidhendra Narayan Singh, learned counsel
for the petitioners and Mr. Ajay Kumar Jha, the learned Additional
P.P. through video conferencing.

Learned counsel for the petitioners submits that
petitioner no.3, Mukhia Kumar has already been arrested and,
therefore, he may be permitted to withdraw the anticipatory bail
petition of petitioner no.3, Mukhia Kumar.

Prayer is allowed.

The anticipatory bail petition of petitioner no.3, Mukhia
Kumar is dismissed as withdrawn.

The petitioners apprehend their arrest in Saksohra P.S.
Case No.45 of 2019, registered under Sections 147, 149, 341, 323,



302 and 201 of the Indian Penal Code.

Dashrath Dhadhi alleged that his son Santosh Kumar was working for Ajay Mahto of village Godhihari. On 05.11.2019, his son had gone to work at Godhihari and worked for the half day. His son returned to his house at 2.30 P.M. In the evening his son left the house without saying anything but his son did not return till night. The informant made search but the informant could not get any whereabouts of his son. On 07.11.2019, Praveen Singh of village Baruane disclosed that a dead body is lying in a ditch. On such information, the informant and others went there and identified the deceased. The informant further alleged that he himself made enquiry and he came to know that Pawan Kumar had taken away his son on his motorcycle on 05.11.2019 and thereafter his father Dinesh Dhadhi, uncle Shiv Kumar Dhadhi, younger brother Lalan Kumar, cousin Mukhia Kumar and Srikant Kumar killed his son.

Learned counsel for the petitioners submits that the informant in his *fardbeyan* disclosed that on 05.11.2019 his son left his house at about 3.40 P.M. but in his subsequent statement he got corrected the date of occurrence and disclosed that his son left his house on 04.11.2019 at 3.40 P.M. In the FIR, the informant disclosed that on enquiry he came to know that petitioner no.1, Pawan Kumar took his son and thereafter the petitioners and his



family members killed his son but the informant has not disclosed the source of information about the occurrence. The informant is a hearsay witness and on mere conjecture, he disclosed the facts that the petitioners and others killed his son. It is further submitted that the occurrence took place on 04.11.2019. The dead body was recovered on 07.11.2019. The father of the deceased, according to his own version, made search for his son but the informant did not inform the police about missing of his son. After lodging of the case, the informant and his family members made fascinating statements and disclosed that Mukhia Kumar took the deceased from the house and thereafter Pawan Kumar, Mukhia Kumar, Srikant Kumar and other family members killed the deceased. It is submitted that in fact there is no eye witness of the occurrence. All witnesses are hearsay witness. The case diary was called for and after considering the materials available on record, a co-ordinate Bench of this Court allowed anticipatory bail of Shrikant Kumar vide order dated 28.08.2020, passed in Cr. Misc. No.14997 of 2020. The case of the petitioners stands on the same footing.

Mr. Ajay Kumar Jha, the learned Additional P.P. opposed the prayer for anticipatory bail and submitted that the witnesses disclosed that the petitioners took the deceased and thereafter the dead body of the deceased was found in a ditch.

Perused the FIR and the case diary lying with the



records of Cr. Misc. No.14997 of 2020. From perusal of the statements of the informant, it appears that the informant firstly disclosed that the occurrence took place on 05.11.2019. The informant in his further statement disclosed that the occurrence took place on 04.11.2019 but the informant did not inform the police or make any statement before anyone about the fact that the petitioners or any other person took his son from his house. The informant made the statement only after recovery of the dead body that he came to know that the petitioners and Mukhia Kumar took his son but at the same time he did not disclose the source of information. Similar is the statement of the daughter, another son and other family members of the informant. Shrikant Kumar has already been enlarged on anticipatory bail vide order passed in Cr. Misc. No.14997 of 2020. The case of the petitioners stands on the same footing.

Taking into consideration the facts that there appears no eye witness of the occurrence and the petitioners have been made accused on mere suspicion, let petitioners, namely, Pawan Kumar and Lalan Kumar @ Lala, in the event of their arrest or surrender before the court below within a period of six weeks from the date of receipt of the order, be enlarged on bail on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate,



1st Class, Barh (Patna) in connection with Saksohra P.S. Case
No.45 of 2019, subject to the conditions laid down under Section
438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

S.KUMAR/-

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