

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26082 of 2020

Arising Out of PS. Case No.-181 Year-2016 Thana- RUNISAIDPUR District- Sitamarhi

1. MD. LAYAK ANSARI S/o Late Okil Ansari Resident of Village-Suhai, Ward No.13, P.S.-Dumra, District-Sitamarhi-843323.
2. Md. Sahid Ansari @ Sahid Ansari S/o Late Hashanjan Ansari Resident of Village-Suhai, Ward No.13, P.S.-Dumra, District-Sitamarhi-843323.
3. Md. Gafoor Ansari @ Abdul Gafoor @ Abdul Gafur S/o Late Md. Isha Ansari Resident of Village-Suhai, Ward No.13, P.S.-Dumra, District-Sitamarhi-843323.
4. Md. Shakoor Ansari @ Abdul Shakoor @ Abdul Shakur S/o Isha Ansari Resident of Village-Suhai, Ward No.13, P.S.-Dumra, District-Sitamarhi-843323.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. A.K. Choudhary
		Mr.Uday Kumar
For the Opposite Party/s :		Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 04-12-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel appearing for the petitioners and learned A.P.P. for the State.

The present petition is by way of second attempt at the behest of the petitioners for grant of anticipatory bail in connection with Runnisaidpur P.S. Case No. 181 of 2016 for the



offence punishable under Sections 302, 34, 120(B) of the Indian Penal Code inasmuch as the earlier prayer of the petitioners for grant of anticipatory bail has been rejected by this Court by an order dated 02.03.2020 passed in Criminal Misc. No. 8972 of 2020 by a well reasoned order, relevant portion whereof is reproduced herein below:-

“The case of the prosecution in brief as per the complaint petition, converted into FIR, is that on 30.03.2016 at about 7:00 P.M. when the informant was at her house, the petitioners no. 2 to 5 herein had arrived at the door of the house of the elder son of the informant, namely, Md. Ahmad Hussain whereafter they had told that Police Inspector was calling him and then they had taken him away, however, the son of the informant did not return in the night and upon search the son of the informant could not be traced and in the morning a dead body was lying in the pond whereupon the informant is said to have reached there and identified the dead body to be that of his son, which was also bearing stab injuries caused by knife on his neck and eye. It has been alleged that the wife of the deceased son of the informant had illicit relationship with the co-accused persons i.e. petitioners no. 2 & 3 herein, hence the wife of the deceased son of the informant had got her husband killed with the help of the accused persons.

The learned senior counsel for informant has submitted that the petitioners have committed gruesome murder of the son of the informant, hence no sympathy can be shown with them. It is further submitted that the present case is distinguishable from the case of the co-accused persons, who have been granted bail by a coordinate Bench of this Court vide order dated 24.02.2020 inasmuch as in the said order dated 24.02.2020, it is clearly stated



that there is no direct allegation against the petitioners of the said case, hence the privilege of anticipatory bail has been granted to the petitioners of the said case, however; in the present case, as far as the petitioners no. 2 to 5 are concerned, there is direct allegation of them having arrived at the door of the house of the deceased and having taken him away along with them whereafter the deceased had become traceless and on the next day morning his dead body was recovered from a pond, marred with knife injuries.

The learned senior counsel for the informant has though not been able to deny the fact that as far as the petitioners no. 1 and 6 are concerned, their case is similar to that of the co-accused persons who have been granted bail by a coordinate Bench of this Court vide order dated 24.02.2020.

I have heard the learned counsel for the parties, perused the materials on record and considered the order dated 24.02.2020 passed by a coordinate Bench of this Court in Criminal Misc. No. 85832 of 2019. It is apparent that as far as the petitioners no. 2 to 5 are concerned, there is direct allegation against them of having taken away the deceased along with them, whereafter the deceased had become traceless and was found murdered, hence it cannot be said that there is no direct allegation as against the petitioners no. 2 to 5, hence their cases are distinguishable from the cases of those co-accused persons who have been granted bail by a coordinate Bench of this Court vide order dated 24.02.2020 passed in Criminal Misc. No. 85832 of 2020. Yet another aspect of the matter is that though the Police might have filed a final form on the ground of mistake of law but the fact remains that the learned Chief Judicial Magistrate, Sitamarhi, on the basis of the materials available on record has differed and taken cognizance against all the accused persons under Sections 302/34 and 120B



of the Indian Penal Code. Since a prima facie case is obviously made out as against the petitioners no. 2 to 5 and they are the accused who are stated to have been last seen with the deceased, their complicity in the matter cannot be ruled out, hence considering the gravity of the offence and the seriousness of the charges levelled against the petitioners no. 2 to 5 as also considering the fact that their case is different from that of the co-accused persons who have been granted anticipatory bail by a coordinate Bench of this Court vide order dated 24.02.2020, as aforesaid, this Court finds that there is no merit in their case for grant of anticipatory bail, hence the present petition qua the petitioners no. 2 to 5 stands dismissed.”

The learned counsel for the petitioners Shri A.K. Choudhary has submitted that the case of the petitioners are in fact similar to those who have already been granted bail. It is further submitted that the Police upon investigation has submitted final form in the case showing mistake of law and finding the case to be untrue, however, the learned Chief Judicial Magistrate, Sitamarhi, on the basis of the materials available on record, has taken cognizance against the accused persons under Sections 302/34 and 120B of the Indian Penal Code.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

Having heard the learned counsel for the parties and perused the materials on record, this Court is of the view that



the issues raised by the learned counsel for the petitioners have already been addressed in the earlier order dated 02.03.2020 and moreover, the learned counsel for the petitioners has not been able to point out any change in circumstance from the day the prayer of the petitioners for grant of anticipatory bail was rejected by this Court by an order dated 02.03.2020, till date, hence I do not find any merit in the present petition. Accordingly, the present petition stands dismissed.

(Mohit Kumar Shah, J)

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