

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25570 of 2020

Arising Out of PS. Case No.-276 Year-2019 Thana- JAGDISHPUR District- Bhagalpur

1. AZAZ Son of Aslam Resident of Village- Hussainabad, Purainee, P.S.- Jagdishpur, District- Bhagalpur.
2. Guddu @ Gudari @ Gudhri Son of Late Shamsul Resident of Village- Hussainabad, Purainee, P.S.- Jagdishpur, District- Bhagalpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Praveen Kumar

For the Opposite Party/s : Mr. Ashok Kumar, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 24-11-2020 The learned counsel for the petitioners and Shri Ashok Kumar, learned A.P.P. for the State were heard at length yesterday and the present case has been listed 'For Orders' today.

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.

The petitioners seek regular bail in connection with Jagdishpur P.S. Case No. 276 of 2019 for the offence punishable under Sections 302, 201/34 of the Indian Penal Code.

The case of the prosecution in brief is that on 13.08.2019



at about 8:00 P.M. in the night, the accused persons namely Jargam and Azaz had called the husband of the informant from home and had taken him towards Quila Maidan where the said Jargam, Tariq and the petitioners herein as also the co-accused persons namely Budhu and Guddu had killed the husband of the informant and thrown his dead body in the well. It is further alleged that rigorous search was made about the whereabouts of the husband of the informant, however, after sometime some people had informed that the *lungee* of the husband of the informant has been seen floating in the well whereafter the dead body of the husband of the informant was taken out from the well.

The learned counsel for the petitioners has submitted that the petitioners are innocent, have been falsely implicated in the present case and they are languishing in custody since 04.12.2019. It is further submitted that no ante mortem injury has been found on the external part of the body of the deceased, which shows that the petitioners are not having any complicity in the matter. It is also submitted that as far as the petitioner no. 2 is concerned, he is having a clean antecedent, however, the petitioner no. 1 is having a fair antecedent inasmuch as he is accused in one other case for petty offence. Lastly, it is



submitted that there is no eyewitness to the alleged occurrence, no internal or external injuries have been found during the postmortem examination of the deceased and moreover similarly situated co-accused person has already been granted bail by a coordinate Bench of this Court vide order dated 02.06.2020 passed in Criminal Misc. No. 13608 of 2020.

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, having perused the materials on record as also the case diary in question, this Court finds that as per the postmortem report, there is no ante mortem external injury on the body of the deceased and the death has occurred on account of asphyxia and shock due to ante mortem drowning, hence this Court is of the view that benefit of doubt can be given to the petitioners for the purposes of grant of bail especially in view of the fact that there is no eye witness to the alleged occurrence and similarly situated co-accused person has already been granted bail by a coordinate Bench of this Court, however, subject to certain conditions.

Accordingly, the petitioners, above named, are directed to be released 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 learned C.J.M., Bhagalpur in connection with Jagdishpur P.S. Case No. 276 of 2019.

It is further directed that the petitioners would mark their attendance before the Officer In-Charge of the concerned Police Station at 10:00 A.M. on every Monday of the week and in the event of their failure to do so on two consecutive occasion, the present privilege of bail shall stand cancelled automatically and the petitioners shall be taken into custody forthwith.

(Mohit Kumar Shah, J)

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