

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61619 of 2019

Arising Out of PS. Case No.-133 Year-2019 Thana- DUMRA District- Sitamarhi

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1. Dharmendra Kumar, Son of Sri Shivji Sahni, Resident of Village - Lagma, P.S.- Dumra, Distt - Sitamarhi.
 2. Gajendra Kumar, Son of Sri Shivji Sahni, Resident of Village - Lagma, P.S.- Dumra, Distt - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Sr. Advocate
Mr. Pravin Kumar, Advocate
For the Opposite Party/s : Mr. Tarkeshwar Nath Thakur, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 25-06-2020 Since as of now the Courts have not resumed normal physical hearing, the matter has been listed today for consideration through video conferencing.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.

Heard learned counsel for the petitioners and the learned APP for the State.

The petitioners are apprehending their arrest in connection with Dumra P.S. Case No.133 of 2019 registered for the offence punishable under Section 302/34 of the Indian Penal



Code.

The prosecution case is that when the informant heard the shouting of his mother in the early morning of 08.04.2019, he rushed towards the noise where he saw the dead body of his sister lying in the pool of blood next to the toilet. In the *Fard beyan*, he has expressed strong suspicion against the petitioners in the murder of his sister by slitting her neck from the back due to some old enmity as a dispute had arisen some time back on the occasion of “*Holi*” and the same was resolved with the help of Panch.

Mr. Ajay Kumar Thakur, learned counsel for the petitioners submits that other than suspicion, there is nothing to connect the petitioners’ involvement in the alleged occurrence. The death had occurred near the toilet within the house of the informant. It is nobody’s case that the sister of the informant had raised any alarm and as such, the entire prosecution story cast a serious suspicion on the prosecution case and thus is highly unbelievable. Referring to paragraph 28 of the case diary, he submits that the police has also doubted the allegation during the course of investigation. Having regard to these facts, the police has, in fact, cast a doubt about the prosecution party itself as being responsible for the death of the victim which has



occurred within the house of the informant. Learned counsel further submits that there is no witness to the petitioners' entry or exit from the house of the informant where the deceased was done to death. The petitioners bear no criminal antecedents.

Learned APP for the State has opposed the prayer for pre-arrest bail. Referring to the order of rejection, it is submitted that the learned Additional Sessions Judge has taken note of the fact that the witnesses have supported the allegation during the course of investigation.

Considering the rival submissions, this Court is inclined to allow petitioners' prayer for grant of anticipatory bail.

Accordingly, let both the petitioners, above named, in the event of their arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Sitamarhi, in connection with Dumra P.S. Case No.133 of 2019, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

(i) That one of the bailors of each of the petitioners will be a close relative of the petitioners who



will give an affidavit giving genealogy as to how he is related with the petitioners concerned. The bailors will also undertake to inform the court if there is any change in the address of the petitioners.

(ii) That the petitioners will be well represented on each date and if they fail to do so on two consecutive dates, their bail bonds will be liable to be cancelled.

(Madhuresh Prasad, J)

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