

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72854 of 2019

Arising Out of PS. Case No.-234 Year-2019 Thana- MASAUDHI District- Patna

1. BHUSHAN PRASAD @ BHUSHAN KUMAR Son of Dwarik Prasad Resident of Village Maya Bigha, P.S. Masaurhi, District - Patna.
2. Chottan Prasad @ Chhotan Kumar Son of Dwarik Prasad Resident of Village Maya Bigha, P.S. Masaurhi, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 72672 of 2019

Arising Out of PS. Case No.-234 Year-2019 Thana- MASAUDHI District- Patna

1. AJAY PRASAD Son of Sukhlal Prasad Resident of Village - Mayabigha, P.S. - Masaurhi, District - Patna.
2. Sumendra Prasad Son of Krishna Prasad Resident of Village - Mayabigha, P.S. - Masaurhi, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 72854 of 2019)

For the Petitioner/s : Smt. Nivedita Nirvikar, Adv.
Mr. Dhaneshwar vashist, Adv.
Mr. Gajanan Mishra, Adv.

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

(In CRIMINAL MISCELLANEOUS No. 72672 of 2019)

For the Petitioner/s : Mr. Shakti Suman Kumar

For the Opposite Party/s : Mr. J. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 06-03-2020 It appears that vide order dated 18.12.2019, passed in Criminal Miscellaneous No. 72672 of 2019, the prayer for anticipatory bail on behalf of petitioner no.1, Ajay prasad stood dismissed as withdrawn.



Heard learned Counsel for the petitioners, informant and learned APP for the State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 147, 149, 448, 379, 341, 323, 376D, 302 of the Indian Penal Code and Section 6 of the POCSO Act.

The prosecution case got initiated on the basis of written report of Sikandar Prasad submitted before the Station House Officer, Masaurhi Police Station is to the effect that on 23.03.2019, the informant went to see his nephew off to Masaurhi when his brother Ranjan Prasad informed him through mobile phone that 15 accused persons have come and robbing the house of the informant. After having received such information, the informant reached at his house and found the articles of the house in scattered position and his 15 years old daughter was found lying dead on the ground. It is alleged that the petitioners, Bhushan Prasad, Chottan Prasad @ Rajesh Prasad, Ajay Prasad, Sumendra Prasad along with co-accused, Raju Prasad and Sanjay Prasad forcefully entered into the house of the informant and took obscene video of the daughter of the informant after ravishing her and throttled her to death.

It is submitted by learned counsel for the petitioners that



the accusation against the petitioners is omnibus and general. The accusation of ravishing the victim or throttling her to death is not corroborated by the medical opinion, as the medical report suggests that the victim died due to asphyxia. It is further submitted that the accusation under Section 376 of the I.P.C. is also not found true and on conclusion of investigation, the charge-sheet has been submitted under Section 306/34 of the I.P.C. Moreover, certain people during investigation suggested that the victim has committed suicide after locking the door from inside and when the lock of the door was broken, the victim was found hanging with ceiling rod. Same was also the stand of the investigating agency in a criminal writ being Cr. W. J. C. No. 1201 of 2019 which was filed by the informant for conclusion of the investigation of the case expeditiously.

Learned counsel for the informant and learned APP for the State after going through the case diary submit that the accusation is omnibus and general against the accused persons in the FIR and the witnesses in paragraph nos.7 and 8 of the case diary have suggested that when the lock of the door was broken, the victim was found hanging with a ceiling rod. Further this fact has also not been controverted that on conclusion of investigation, the charge-sheet has been submitted under Section



306/34 of the Indian Penal Code. Moreover, similarly situated co-accused, Dwarik Prasad, Yadu Prasad & Ors and Sujit Prasad have been granted anticipatory bail by different Co-ordinate Benches of this Court vide order dated 27.11.2019, 03.12.2019 and 16.11.2019, passed in Criminal Miscellaneous No.74824 of 2019, Criminal Miscellaneous No. 78804 of 2019 and Criminal Miscellaneous No. 51315 of 2019 respectively. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

Considering the accusation not being corroborated by the medical opinion, the fact that on conclusion of investigation, the charge-sheet has been submitted under Section 306/34 of the Indian Penal Code, similarly situated co-accused have been granted bail by different Co-ordinate Benches of this Court coupled with statement made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent, let the above named petitioners (except petitioner no. 1, Ajay Prasad in Criminal Miscellaneous No. 72672 of 2019) be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, 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 1st ADJ-cum-Special Judge (POCSO), Patna, in connection with Masaurhi P.S. Case No.234 of 2019 (Special (POCSO) Case No.55 of 2019, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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