

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74845 of 2019

Arising out of PS. Case No.-14 Year-2019 Thana- SARMERA District- Nalanda

1. Rakesh Yadav S/o Ram Yadav R/o Village- Son diha, P.S.- Sarmera, District- Nalanda.
2. Rajo Yadav S/o Late Jagu Yadav R/o Village- Son diha, P.S.- Sarmera, District- Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Kishor Prasad, Advocate

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

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 08-07-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Raj Kishor Prasad, learned counsel for the petitioners and Mr. Arun Kumar Pandey, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioners are in custody in connection with Sarmera PS Case No. 14 of 2019 dated 28.01.2019, instituted under Section 364 of the Indian Penal Code in which, later on, Section 302/34 of the Indian Penal Code was added.

4. The allegation against the petitioners and others is of abducting the brother of the informant whose dead body was later recovered.



5. Learned counsel for the petitioners submitted that it is only the statement of the wife on which they have been made accused but the same is not corroborated by any eye-witness. It was submitted that no motive has been assigned to the petitioners for committing such crime which also makes the allegation doubtful. Learned counsel submitted that the petitioner no. 1 is in custody since 12.07.2019 whereas the petitioner no. 2 is in custody since 17.06.2019.

6. Learned APP, from the case diary, submitted that there is enough material to indicate the involvement of the petitioners. It was submitted that the wife of the deceased, who is an eye-witness, after the abduction, had rushed home and informed about the abduction of her husband by the petitioners and others who had taken him after putting scarf (*gamchha*) in his neck. It was submitted that after the FIR was lodged, the body was recovered and the scarf was found in his neck and the body also had injury marks over the face and other areas, which corroborates the version of the wife of the deceased, who is an eye-witness. It was submitted that the FIR being lodged prior to the recovery of the body and the allegation against the petitioners and others of abducting the brother of the informant after tying scarf in his neck could not have been anticipated by the wife prior to recovery of



the body and the body having been recovered with scarf around the neck clearly proves that the version of the wife to the informant was correct. It was further submitted that other witnesses have also supported the fact that the wife had come running to the informant and had narrated with regard to the petitioners and others having abducted her husband (deceased) by tying scarf around his neck. Learned counsel submitted that nothing has come as to why the wife of the deceased and the informant would falsely implicate the petitioners and others and also the fact that brother of the informant being killed clearly shows that crime was committed by the accused, including the petitioners.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the contention of learned APP. Accordingly, the Court is not inclined to enlarge the petitioners on bail, for the present.

8. The application stands dismissed.

(Ahsanuddin Amanullah, J)

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