

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10893 of 2020

Arising Out of PS. Case No.-77 Year-2019 Thana- BATHNAHA District- Sitamarhi

1. UDAY KUMAR S/o Fakira Mahto R/o village- Haribela, P.S.- Bathnaha, District- Sitamarhi
2. Randhir Mahaseth S/o Kishori Mahaseth R/o village- Bhaluaaha, P.S.- Kanhauli, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Pushpendra Kumar Singh, Adv.
For the Opposite Party/s :	Mr. Akhileshwar Dayal, APP
For the Informant	Mr. Birendra Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

7 12-01-2021 Heard learned counsel for the petitioners, learned APP
for the State and learned counsel for the Informant.

The instant application for anticipatory bail has been filed by the petitioners apprehending their arrest in connection with Bathnaha P.S. Case No. 77 of 2019, registered under sections 302, 383, 364, 366, 120 B, 201 and 34 of the Indian Penal Code.

As per allegation in the FIR, the son of the informant was taken by the petitioners to Delhi stating that they would get him employed. It is stated that for about two months the informant talked with his son but thereafter there was no communication between them. It is further stated that on the petitioners returning home, on asking them about the whereabouts of his son, they further extorted Rs. 20,000/- from the



informant and on one pretext or the other kept avoiding him. They finally stated that they had sent his son out of the country and refused to give his telephone number on which he could be contacted.

It is submitted by learned counsel for the petitioners that from reading of the FIR itself, it would transpire that except for an unsubstantiated suspicion being raised against the two petitioners, there is no material to connect them within the alleged crime. It is submitted that the only fact being stated by the informant is that the son of the informant had accompanied the two petitioners for earning his livelihood in Delhi. It is submitted that from perusal of paragraph no. 5 of the FIR it would transpire that even after reaching Delhi for nearly two months, the informant was in contact with his son on telephone. The petitioners have no criminal antecedent.

The application for bail is opposed by learned APP for the State and learned counsel for the informant. It is submitted by learned counsel for the informant that not only the petitioners are named in the FIR but there is statement to the effect that it was they who had taken his son to Delhi and thereafter committed his murder. It is submitted that charge sheet has been submitted and the case against the petitioners has been found to



be true.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case and on perusal of the allegation as levelled in the FIR and also the material that has transpired in course of investigation, the Court is inclined to enlarge the petitioners on bail especially in view of the fact that even after the son of the informant reaching Delhi, it is stated that for two months the informant was in contact with his son on telephone.

The petitioners are directed to surrender in the Court below within a period of eight weeks from today and in the event of their arrest or surrender in connection with Bathnaha P.S. Case no. 77 of 2019, they will be enlarged on bail on each of them furnishing bail bond of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi subject to the conditions as laid down under section 438(2) of the Cr.P.C.

(Partha Sarthy, J)

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