

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 26871 of 2021**

Arising Out of PS. Case No.-305 Year-2020 Thana- HUSSAINGANJ District- Siwan

1. Sumitra Devi, Female, aged about 77 years, wife of Late Srinath Gond.
 2. Sunita Devi, Female, aged about 40 years, Wife of Shravan Gond.
Both are the resident of Village-Tikri, PS-Hussainganj, District-Siwan
- Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar, Advocate
For the State	:	Ms. Pronoti Singh, APP
For the Informant	:	Mr. Irshad Ahmad Khan, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 13-08-2021

The matter has been heard via video conferencing.

2. Heard Mr. Ashok Kumar, learned counsel for the petitioners; Ms. Pronoti Singh, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Irshad Ahmad Khan, learned counsel for the informant.

3. The petitioners apprehend arrest in connection with Hussainganj PS Case No. 305 of 2020 dated 02.11.2020, instituted under Sections 302 and 201/34 of the Indian Penal Code.

4. The allegation against the petitioners and their other family members is of abducting the son of the informant on suspicion that he had run away with the grand-daughter of



the petitioner no. 1. Later, the dead body of the son of the informant has been recovered and the postmortem reveals that he was strangled.

5. Learned counsel for the petitioners submitted that the petitioner no. 1 is a 77 years old lady, suffering from various ailments and has no concern with such affair and that the petitioner no. 2 was not in the village at the relevant time. It was further submitted that the petitioner no. 1 had lodged FIR against the informant and her family members on 13.07.2019 with regard to abduction of her grand-daughter by the informant and her family members including his son. It was submitted that as per the FIR in the present case, which was instituted on 02.11.2019, it has been stated that when the son of the informant had gone missing, and they had gone to the house of the informant, the accused had held back another son of the informant and when they had gone to the police, it was assured that the son of the informant would return. Learned counsel submitted that the petitioners have no criminal antecedent. Learned counsel submitted that the petitioners are ladies and from the postmortem, it appears that death was due to strangulation and the trachea was found to be injured and thrashed. Thus, learned counsel submitted that the same is not likely to have been



committed by the petitioners as the male members were also accused and they were sufficient, if at all, they had done it, to commit the crime. Learned counsel submitted that only because the petitioners are members of the family, they have been made accused in the case.

6. Learned APP, from the case diary, submitted that witnesses have supported the prosecutor story and further that no other angle has come during investigation with regard to any other person having any motive to commit the crime and there is clear indication of the petitioners' side having a strong motive to commit the crime as the grand-daughter of the petitioner no. 1 is alleged to have been taken away by the younger son of the informant and still they are traceless. It was submitted that in such background, it is clear that to take revenge from the family of the informant, the brother, of the boy who is said to have taken away the grand-daughter of the petitioner no. 1, has been done to death. Learned counsel submitted that even a year back, the petitioner no. 1 had filed a case alleging abduction of her grand-daughter by the said son of the informant but the girl upon recovery had stated that she had left her home on her own free will and had called the other son of the informant which clearly shows that there was no



role of the informant or her family and further that there had been no abduction of the girl.

7. Learned counsel for the informant submitted that all the family members of the accused, including the petitioners, were involved in the crime which has been established during investigation.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the plea taken by the petitioner no. 1 that she is 77 years old does not appear to be correct as in the complaint filed before the police, which is the basis of institution of Hussainganj PS Case No. 208 of 2019 dated 02.11.2019, which is hand written, the petitioner no. 1 has disclosed her age as 50 years, whereas in the present petition, it is shown as 77 years. Further, the plea that the petitioners were not involved in the incident and they had no role, also does not *prima facie* appears to be correct for the reason that when the petitioner no. 1 was the informant in the other case, it is obvious that she was directly involved in the issue and, thus, after one year, again when the incident occurred, whatever happened could not have been without the knowledge or consent of the petitioners, especially petitioner no. 1. Thus, on an overall view of



entire matter, the Court is not inclined to grant pre-arrest bail to the petitioners.

9. Accordingly, the petition stands dismissed.

10. Interim protection granted to the petitioners under order dated 12.07.2021, stands vacated.

11. However, in view of submission of learned counsel for the petitioners, it is observed that if the petitioners appear before the Court below and pray for bail, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	
T	

