

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29431 of 2021

Arising Out of PS. Case No.-429 Year-2020 Thana- JHAJHA District- Jamui

1. Md. Mumtaz Ansari @ Md. Mumtaz Son Of Late Ishaque Mian Resident of Village - Ramdih, P.S.- Jhajha, Distt.- Jamui.
2. Md. Mudla Son of Shamsher @ Daha Resident of Village - Barajor, P.S.- Jhajha, Distt.- Jamui.
3. Md. Ashique Son of Shamsher @ Daha Resident of Village - Barajor, P.S.- Jhajha, Distt.- Jamui.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar Sinha, Advocate
For the Informant	:	Mr. Satya Prakash Parashar, Advocate
For the Opposite Party/s	:	Mr. APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 24-11-2021 Heard learned counsel for the petitioners, learned counsel for the informant and learned A.P.P. for the State.

The petitioners seek regular bail in connection with Jhajha P.S. Case No. 429 of 2020 instituted for the offences under Sections 302, 201 and 34 of the Indian Penal Code.

Learned counsel for the petitioners submits that the petitioner no. 1 is in custody since 16.12.2020, petitioner no. 2 is in custody since 28.12.2020 and petitioner no. 3 is in custody since 25.01.2021, charge-sheet has been submitted in the case and all are persons with clean antecedent.

Learned counsel for the petitioners submits that from



bare perusal of the allegation as alleged in the F.I.R. it would manifest that informant, Md. Kalim gave a written report to Officer-in-Charge of Jhajha Police Station alleging that on 07.12.2020, Md. Sarfraj and Md. Meraj had come to his place and called his son Akbar from the house. Further, that when Akbar did not return till evening, the informant went to the house of Md. Mumtaz (petitioner) to query about his son who said that he will return after one or two days. It is further alleged that on 10.12.2020 villagers informed him that the dead body of his son was lying beside the railway track. Accordingly, the informant instituted this case against Md. Sarfraj and Md. Meraj.

Learned counsel for the petitioners submits that from perusal of the F.I.R. it would manifest that the informant has specifically alleged that his son was taken away by Md. Sarfraj and Md. Meraj on 07.12.2020 and on 10.12.2020 the informant came to know through a villager that the dead body of his son was lying near railway track. Learned counsel further submits that Md. Mumtaz is the father of Md. Sarfraj and Md. Meraj and against him nothing was alleged in the F.I.R. not even suspicion was raised with regard to his conduct.

Learned counsel for the petitioners submits that the



petitioners herein came to be implicated by the informant in his restatement recorded on 10.12.2020. He further submits that had the informant any suspicion even with regard to the role of the present petitioners in the death of his son, then they would have been named in the F.I.R. The fact that the petitioners are not named in the F.I.R. and subsequently came to be implicated in the restatement goes to demonstrate that they have been falsely implicated for the reason that Md. Mumtaz Ansari's son had been alleged to be involved in the case.

Learned counsel for the informant vehemently opposes the prayer for regular bail of the petitioners and placing reliance on paragraph '4' of the case diary argues that the informant in his restatement has taken the name of these petitioners along with few others. He further submits that from perusal of the statement of the informant in the case diary it would manifest that the informant had stated that at about 10:30 in the morning itself the petitioner no. 1 had called him and abused him regarding his son.

Learned counsel for the petitioners submits that what has been stated in the restatement if it was correct then the same would have formed part of the F.I.R. as F.I.R. was instituted on 10.12.2020 at about 3:00 pm.



Learned A.P.P. for the State vehemently opposes the prayer for regular bail of the petitioners.

Considering the fact that the petitioners are not named in the F.I.R., they are persons with clean antecedent, their name transpired in the restatement of the informant, they are in custody as aforesaid, the occurrence is of 07.12.2020 and the F.I.R. has been instituted after a delay of three days i.e. on 10.12.2020, let the petitioners above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned C.J.M., Jamui in connection with Jhajha P.S. Case No. 429 of 2020 subject to the condition as laid down under Section 437 (3) Cr.P.C.

(Satyavrat Verma, J)

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