

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37161 of 2020

Arising out of PS. Case No.-04 Year-2020 Thana- KUNDWACHAINPUR District- East
Champaran

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1. Ram Kalash Kumar @ Ram Akhilesh Kumar, aged about 19 years, Male, Son of Surendra Yadav @ Surendra Kapar Resident of Village - Mahangua, P.S.- Kundwa Chainpur, District - E. Champaran.
 2. Surendra Yadav @ Surendra Kapar, aged about 40 years, Son of Baidya Nath Kapar Resident of Village - Mahangua, P.S.- Kundwa Chainpur, District - E. Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anshu Dhar Sharma, Advocate
For the State	:	Ms. Asha Devi, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 09-08-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Anshu Dhar Sharma, learned counsel for the petitioners and Ms. Asha Devi, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioners apprehend arrest in connection with Kundwa Chainpur PS Case No. 04 of 2020 dated 03.01.2020, instituted under Sections 302, 328/34 of the Indian Penal Code.

4. As per the FIR, the granddaughter of the informant is alleged to have been poisoned to death by six named accused, not the petitioners, who are the uncle and cousin brother of the deceased.



5 Learned counsel for the petitioners submitted that the grandfather of the deceased, who is also the grandfather of the petitioner no. 1 and father of petitioner no. 2, had lodged the FIR in which six persons have been named and are alleged to have poisoned his granddaughter to death. However, it was submitted that during the course of investigation, the entire focus of the investigation has turned towards the informant and his family members due to which the informant and his brother were arrested and now released on bail and the petitioners are close family members. Further, learned counsel submitted that the case has taken a u-turn only on the basis of supervision report of the Sub Divisional Police Officer as he has made out a case against the informant that they had killed the deceased and had shifted the blame to the named accused. It was submitted that the main accused was Ashok Kumar who was related to the informant side being agnates. It was submitted that giving a clean chit to the main accused and putting blame on the informant's side is a colourable exercise of power by the police. Learned counsel submitted that that the motive to kill was also against the named accused and not the petitioners.

6. Learned APP, from the case diary, submitted that it has come during investigation where independent witnesses have



stated that it was the villagers who had gone to the place where the body was being burnt and they had extinguished the fire and, thereafter, the post-mortem was conducted. It was submitted that further it has come during investigation that there is a video of petitioner no. 1 helping his uncle take the body half-wrapped in a cloth. Learned counsel submitted that if the contention of the petitioners is taken to be true that it was Ashok Kumar who was the main culprit as he was having relationship with the deceased, then also it is unbelievable that if the intention was to kill the girl she would not have been called from her house and rather would have been left in her house as nothing adverse was happening to them and, thus, enticing the girl from her house and taking her to kill, within a few hours, does not make any sense. Learned APP submitted that it has also come during investigation that on the fateful night, between 2-4 AM, when the villagers had called the police to the house of the informant, he had stated that it was a dispute relating to love affairs between his granddaughter and the grandson of his agnate and that they had sorted out the matter among themselves and, thus, the whole story that she was enticed and taken away by the accused and they had tried to burn the body and fled away, is false. It was further submitted that the informant not informing the police for over 12 hours and, thereafter, the body



being recovered in the afternoon the next day also indicates that the story as narrated in the FIR is not correct. Learned APP submitted that from the entire investigation it is clear that there was absolutely no plausible explanation as to why the named accused would commit a crime as even if they had some issues, they would have just left her at her parents' house without bothering to entice and kill her within a few hours. Learned counsel submitted that it has also come during investigation that the informant side had caught the deceased girl and Ashok Kumar and they had mercilessly been beaten due to which the grandfather of Ashok Kumar, who is also cousin of the informant, had come to the house of the informant and had saved Ashok Kumar and taken him back, but had left the girl at the house of the informant, where, on account of severe and brutal assault and beating by the informant side, she had died and the informant side had tried to cremate her, but before that, the police had come at the behest of the villagers and they could not succeed in burning the dead body. It was submitted that since the body was found 50 per cent burnt there was no finding with regard to external injuries on the body.

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. From the



investigation and the circumstances, it appears that it is the informant side itself which has killed the girl and role of the petitioners cannot be ruled out as there is sufficient material to indicate their involvement.

8. For reasons aforesaid, the Court is not inclined to grant pre-arrest bail to the petitioners. Accordingly, the petition stands dismissed.

9. Interim protection granted to the petitioners under the order dated 08.07.2021 stands vacated.

(Ahsanuddin Amanullah, J)

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