

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40751 of 2020

Arising Out of PS. Case No.-90 Year-2020 Thana- MAJORGANJ District- Sitamarhi

1. DINESH SAH Son of Dukha Sah R/o Village- Dumrikala, Tole Jagiraha, P.S.- Mejarganj, Distt- Sitamarhi.
2. Ramu Sah Son of Shiv Shankar Sah R/o Village- Dumrikala, Tole Jagiraha, P.S.- Mejarganj, Distt- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ashok Kumar Jha
For the Informant	:	Mr. Purnendu Singh
For the Opposite Party/s	:	Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 12-04-2021 This matter is taken up for consideration through Video Conferencing under the orders of Hon'ble the Chief Justice.

Heard counsel for petitioners, counsel for informant and the State.

The petitioners seeks bail in Mejarganj P.S. Case No. 90 of 2020, registered for the offence punishable under Sections 302, 201 and 34 of the Indian Penal Code.

As per the prosecution case, on 17.06.2020, elder brother of informant left his house for watching the field, but he did not return. During course of search, on 18.06.2020, the informant saw that co-accused Jitan Sah along with his



associates were throwing the dead body of his elder brother. On chase, co-accused Jitan Sah was apprehended and other accused persons managed to escape. Information was given to the police and in presence of villagers and the police, he disclosed the name of petitioners as his associates.

It is submitted on behalf of the petitioners that petitioners have been made accused in this case on the basis of confessional statement of co-accused who was apprehended on the spot. Save and except confessional statement of co-accused, there is no material against these petitioners which shows their involvement in the aforesaid crime. There is no eye-witness of the occurrence. At best, offence under Section 201 of IPC is made out against these petitioners. Petitioners are in custody since 19.06.2020 having clean antecedent, as stated in para 12 of the petition.

However, counsel for informant vehemently opposed the prayer for bail and submitted that name of petitioners has come on the basis of confessional statement of co-accused Jitan Sah who was apprehended on the spot. It is further submitted that now the trial is at advance stage, so the prayer for bail of the petitioners may be rejected in view of the decisions of Supreme Court and in this connection he has referred following



decisions of Apex Court :-

- (1.) 2004 (2) SCC pg- 528
- (2.) 2007 (1) SCC Pg- 70
- (3.) 2002 (3) SCC pg- 598
- (4.) AIR 1978 SC pg- 179
- (5.) 2010 (14) SCC pg- 496

Considering the facts and circumstances of the case and the fact that save and except confessional statement of co-accused there is no material against the petitioners, the petitioners above-named, are directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Sitamarhi in connection with Mejarganj P.S. Case No. 90 of 2020, subject to following conditions:-

(i) The petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, their bail bonds shall be liable to be cancelled by the court below.

(ii) If the petitioners tamper with the evidence or the witnesses of the case, in that case, prosecution will be at liberty



to move for cancellation of bail of the petitioners.

(Prabhat Kumar Singh, J)

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