

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 7800 of 2021**

Arising Out of PS. Case No.-420 Year-2020 Thana- CHOUTARWA District- West
Champaran

-
1. Ripusudan Dubey @ Ripusudan Dwivedi, aged about 30 years, Male.
 2. Madhurendra Dubey, aged about 44 years, Male.
 3. Sudarshan Dubey, aged about 43 years, Male.
All sons of Sharda Dubey.
 4. Ketan Dubey @ Rajnish Kumar Dubey, aged about 22 years, Male, Son of
Madhurendra Dubey.
All Resident of Village- Bariarwa, PS- Chautarwa, District- West
Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bashishth Narayan Mishra, Advocate
For the State	:	Mr. Md. Arif, APP

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

Date : 29-07-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioners on 20.07.2021, which was allowed.

3. Heard Mr. Bashishth Narayan Mishra, learned counsel for the petitioners and Mr. Md. Arif, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.



4. The petition on behalf of petitioners no. 3 and 4, namely, Sudarshan Dubey and Ketan Dubey @ Rajnish Kumar Dubey, have already been withdrawn earlier and is restricted to petitioners no. 1 and 2, namely, Ripusudan Dubey @ Ripusudan Dwivedi and Madhurendra Dubey.

5. The petitioners no. 1 and 2 apprehend arrest in connection with Chautarwa PS Case No. 420 of 2020 dated 02.10.2020, instituted under Sections 302 and 201/34 of the Indian Penal Code.

6. The allegation against the petitioners no. 1 and 2 is that they had killed the brother of the informant.

7. Learned counsel for the petitioners submitted that from the first part of the FIR, it appears that the informant was witness to the crime in which the petitioners no. 1 and 2 have also been named, but from the later part, it is clear that he was not an eye witness as it is stated that he along with other family members had tried to locate the deceased who had not returned home and only next morning, the body was recovered, which clearly proves that he was not an eye witness to the incident. Learned counsel submitted that there is long history of enmity/litigation between the parties as they have filed cases against each other. It was submitted that the petitioners no. 1 and 2 are accused in two cases



filed by the informant side and one other case but not under grave sections. It was submitted that the deceased was a hardened criminal and was accused in several murder cases and was living in the village of his sister-in-law and not in his original village and three brothers of the deceased had been killed because of their criminal history, either in police encounter or by others and the deceased himself was accused in Ramnagar PS Case No. 101 of 1986, which was instituted under Section 302 of the Indian Penal Code, in which trial was pending. Learned counsel submitted that there is no eye witness or independent witness to support the prosecution story that the petitioners no. 1 and 2 had killed the deceased. It was submitted that the petitioner no. 1 is the *Panch* of Gram Kuchery of Salha Bariarwa, PS Chautarwa, West Champaran and had conducted several *panchayati* against the informant and the informant's brother-in-law namely, Yadov Lal Yadav due to which they have been implicated being members of the same family. It was submitted that much prior to the present case, the petitioner no. 1 had instituted Chautarwa PS Case No. 285 of 2018 on 13.12.2018, against the informant and his brother-in-law as also nephew of the informant, alleging snatching of Rs. 50,000/- at gun point and also mercilessly assaulting him. Further, it was submitted that the petitioner no. 1 is also a witness in



Complaint Case No. 656 C of 2017, in which the informant is an accused and the petitioner no. 1 had given evidence against him. It was submitted that there is no eye witness and only on suspicion, they have been made accused.

8. Learned APP submitted that the brother of the deceased, who is the informant has named the petitioners as one of the perpetrators of the crime. However, it was not controverted that in the FIR itself, it has been stated that there is litigation between the sides.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner no. 1, namely, Ripusudan Dubey @ Ripusudan Dwivedi and petitioner no. 2, namely, Madhurendra Dubey be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned ACJM, 1st Bagaha, District-West Champaran in Chautarwa PS Case No. 420 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, and further, (i) that one of the bailors shall be a close relative of the petitioners no. 1 and 2, (ii) that the petitioners no. 1 and 2 and the bailors shall execute



bond and give undertaking with regard to good behaviour of the petitioners no. 1 and 2 and (iii) that the petitioners no. 1 and 2 shall co-operate with the police/prosecution and the Court. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of their bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners no. 1 and 2, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners no. 1 and 2.

11. The petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	
T	

