

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80101 of 2019

Arising Out of PS. Case No.-176 Year-2019 Thana- BAHADURGANJ District- Kishanganj

1. Mamnoon, Son of Ainuddin, Gender-Male, Age-46 years, Resident of Satighatta, P.S.- Bahadurganj, Distt.- Kishanganj.
2. Suleman, S/o Ainuddin, Gender-Male, Age-62 years, Resident of Satighatta, P.S.- Bahadurganj, Distt.- Kishanganj.
3. Rafique Alam, S/o Saifuddin, Gender-Male, Age-31 years, Resident of Gargaon, P.S.- Terhagachh, Distt.- Kishanganj.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Jitendra Kumar Pandey, Advocate
For the State	:	Dr. Ajeet Kumar, APP
For the Informant	:	Mr. Fahad Alam, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 18-03-2021 Mr. Jitendra Kumar Pandey, the learned counsel for the petitioners, Dr. Ajeet Kumar, the learned Additional P.P. and Mr. Fahad Alam, the learned counsel appearing on behalf of the informant.

The petitioners apprehend their arrest in Bahadurganj P.S. Case No.176 of 2019, registered under Sections 302 and 34 of the Indian Penal Code.

Naheda Begum, the mother of the deceased, disclosed that all her family members had gone for Roksadi of his son Hasan Raja. Esan Babu, one of the sons of the informant, stayed in her house to look after the house and he received a call in the



evening and, on such, he left the house informing the informant that he would be back after sometime. When Esan Babu did not return, the informant enquired in the village and came to know from the villagers that Mamnoon, petitioner no.1, Suleman, petitioner no.2, Hasnain, Ainuddin and Rafique Alam, petitioner no.3 took her son towards south of the bridge by the side of the river. On such information, the informant went in search along with the villagers and found her son lying injured in her field of *Jute* crops. The villagers took her son to hospital, but on his way to hospital, her son breathed his last.

Mr. Jitendra Kumar Pandey, the learned counsel for the petitioners submits that the petitioners are innocent and nobody has seen the petitioners assaulting the son of the informant. At best the only material against the petitioners is that they were seen moving towards southern side of bridge along with the deceased. Save and except suspicion and the last seen, there appears no other tangible material to show the involvement of the petitioner in killing of Esan Babu, the son of the deceased.

The learned Additional P.P. as well as the learned counsel for the informant vehemently opposed the prayer for bail and submitted that almost all villagers saw the petitioners



and others going towards south of the bridge with the deceased and the villagers did not see the petitioners coming back. During the course of search, the son of the informant was found lying in the *Jute* crop field belonging to the informant, but the son of the informant succumbed to the injuries before getting any treatment. The witnesses also reiterated the same facts.

Taking into consideration the facts that the petitioners were seen accompanying the deceased and thereafter the deceased was found lying injured in the Jute crop field, I am not inclined to enlarge the petitioners on anticipatory bail. Accordingly, the prayer for anticipatory bail of the petitioners is rejected.

If the petitioners surrender in the court below, the learned court below shall consider the prayer for regular bail of the petitioners on its own merit without being prejudiced from the order of this Court.

(Prabhat Kumar Jha, J)

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