

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18089 of 2021

Arising Out of PS. Case No.-262 Year-2020 Thana- HISUWA District- Nawada

1. Pushpa Devi Wife Of Dhiraj Kumar Resident Of Mahrani Road, Nai Godam, Police Station - Kotwali, District - Gaya.
2. Pankaj Kumar Son Of Anugrah Prasad @ Ram Anugrah Prasad Singh Resident Of Oro, Police Station - Hisua, District - Nawada.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Advocate.

For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

14 22-06-2022 Learned counsel for the petitioners is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Sanjeev Ranjan, learned counsel for the petitioners and Mr. Satyendra Narayan Singh, learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioners, above named, who have been made accused and put behind the bar in connection with Hisua P. S. Case No. 262 of 2020 registered for the offences punishable under Sections 302, 201, 120 (B) read with 34 of the Indian Penal Code.

As per the prosecution case, it is alleged that on 10.08.2020 a dead body of a female was found lying at a deserted place near Bhairav Pahari Baba. The informant being *dafadar* went there and saw the dead body of the female, the persons, who assembled there, did not identify the dead body



then the information was given to Hisua Police Station and the dead body was sent for its post mortem etc.

Learned counsel appearing on behalf of the petitioners submitted that the petitioner no. 1 happens to be mother of the deceased and the petitioner no. 2 is maternal uncle. It is further submitted that the F.I.R. has been instituted against unknown persons but after eighteen days of the alleged recovery of the dead body, suspicion has been raised with regard to the complicity of three persons including these two petitioners. It is also submitted that in course of investigation a mobile phone was alleged to be recovered from the place of occurrence, which was found in the name of one Imitiyaz, though he has not been made accused and he has made witness in the case and his statement has been recorded in paragraph no. 28 of the case diary. He stated the name of the deceased as Ritika, friend of her daughter and further stated that the (deceased) daughter of the petitioner no. 1 lives in her locality but some time before she shifted to other locality. On the strength of the statement of independent witness, learned counsel for the petitioner submits that the (deceased) daughter of the petitioner no. 1 was living in a separate accommodation. It is also submitted that there is no eye-witness to the alleged



occurrence, however, and during the course of investigation the only material which has come against the petitioner nos. 1 & 2 is that the petitioner no. 1 had love affair with co-accuse Gaurav Bhardwaj and they used to live together with the petitioner no. 2 in a rented accommodation, which was always being protested by the deceased and except suspicion no material has come, which suggests the complicity of the petitioners in the present case. It is further submitted that the petitioner no. 1 has clean antecedent and petitioner no. 2 has carrying one criminal antecedent being Hisua P. S. Case no. 152 of 2020 registered under Section 366 (A) of the Indian Penal Code and both the petitioners are in custody since 24.08.2020. It is lastly submitted that the investigation has already been concluded and charge-sheet has been submitted in the present case.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that during the course of investigation, it has come that the deceased was protesting the relationship of her mother, hence, she might have been killed by all the accused persons by hatching a conspiracy. It is also submitted that from the CDR of mobile of the co-accused Gaurav Bhardwaj and the petitioner, it appears that both were present near the place of occurrence.



Having considered the submissions made on behalf of the parties and taking into account the fact that except suspicion there is no cogent material on record, which suggests the complicity of these petitioners in the present case, apart from that the independent witness has stated that these two petitioners were residing in a separate accommodation and moreover, one co-accused, namely, Gaurav Bhardwaj against whom there is identical allegation has already been granted bail by learned co-ordinate Bench of this Hon'ble Court in Cr. Misc. No. 6019 of 2021 vide order dated 12.08.2021 and these petitioners are in custody since 24.08.2020, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Nawada in connection with Hisua P. S. Case No. 262 of 2020, subject to the condition that one of the bailors will be the close relative of the petitioners with further conditions which are as follows:-

- (i) The petitioners will cooperate in conclusion of the trial.
- (ii) They will remain present on each and every date of trial till disposal of the case.



- (iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.
- (v) The Court below shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancelling of bail bonds of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

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