

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8072 of 2022

Arising Out of PS. Case No.-137 Year-2021 Thana- BARSOI District- Katihar

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Md Ekhlak @ Ekhlak Alam, Son of Jahiroddin Resident of Village - Neem
Tola, Gohas, P.S.- Baisi, Distt.- Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 8890 of 2022

Arising Out of PS. Case No.-137 Year-2021 Thana- BARSOI District- Katihar

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Afsar Raza, Son of Md. Jamil Akhtar, Resident of Village - Balkoth,
Shikarpur, P.S. - Dalkola, District - Uttar Dinajpur (West Bengal).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 8072 of 2022)

For the Petitioner/s : Mr. Sayed Qaisar Hasan, Advocate

For the Opposite Party/s : Mr.Kumar Ranjit Ranjan, APP

(In CRIMINAL MISCELLANEOUS No. 8890 of 2022)

For the Petitioner/s : Mr.Bimal Kumar, Advocate

For the Opposite Party/s : Mr.Zainul Abedin, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 30-08-2022 Since both the applications arise out of Barsoi

(Sudhani OP) P.S. Case No. 137 of 2021, as such, they have

been heard together and are being disposed of by this common

order.

Heard learned counsels for the petitioners and learned

APP for the State.



Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioners seek bail in connection with Barsoi (Sudhani OP) P.S. Case No.137 of 2021, registered for the alleged offence under Sections 302, 201 and 34 of the Indian Penal Code.

As per the prosecution case, dead body of a lady was recovered and her neck was found slit with some sharp cutting weapon. Further, a dead body of a child was also recovered. The case was registered against unknown, but during investigation, the name of the petitioners came up as accused persons who murdered the lady and the child.

The learned counsels for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. There is no eye witness to the alleged occurrence. None has seen the petitioners killing the deceased lady Tabassum and the deceased child Sahil. So far as finding the mobile location of the petitioners and the deceased lady at the same place are concerned, it is natural as the petitioners are also residents of same locality. There has been recovery shown from the petitioner Md. Ekhlak of a knife, but the same was not



bloodstained and is a common article available in all houses. The petitioners have been implicated in this case merely on suspicion and on the basis of their confessional statement which has got no legal sanctity. The prosecution story about the deceased eloping with the petitioner Md. Ekhlak, who was not ready to live with her is not believable. The learned counsel for the petitioner Afsar Raza further submits that there has been no recovery from this petitioner and merely on tower location and call details report, this petitioner has been made accused in this case. The petitioners are in custody since 02.08.2021 and the charge sheet has been submitted.

Learned APP opposes the prayer for bail submitting that the prosecution case has been supported by the witnesses examined during investigation. The witnesses have stated about the affairs of the petitioner Md. Ekhlak with the deceased lady. Further the tower location of the mobile phones of the deceased and the two petitioners have been shown at the same place on the fateful day as mentioned in paragraph 58 of the case diary. The learned APP further submits that from the house of the petitioner Md. Ekhlak, the murder weapon, a big sharp knife, has been recovered as mentioned in paragraph 81 of the case diary. The learned APP further submits that the allegation



against the petitioners that they conspired together and killed the deceased lady and her child and the recovery has been made on the statement of the petitioner Afsar Raza from the house of the petitioner Md. Ekhlak.

Perused the records.

Having regard to the facts and circumstances and submissions made hereinabove and considering the serious nature of allegation against the petitioners for killing a lady and her son and though it is a case of circumstantial evidence, but recovery of murder weapon has been made from the house of petitioner Md. Ekhlak on the statement of petitioner Afsar Raza and from the post mortem report, it appears that throat of the lady was slit and the child was also brutally murdered, I am not persuaded to grant bail to the petitioners.

Hence, their prayer for bail is rejected.

However, the learned trial court is directed to expedite the trial and conclude the same expeditiously preferably within a period of one year.

(Arun Kumar Jha, J)

V.K.Pandey/-

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