

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18777 of 2021

Arising Out of PS. Case No.-463 Year-2019 Thana- SAUR BAZAR District- Saharsa

1. PANKAJ KUMAR SINGH @ PANKAJ SINGH Son of Banarsi Singh Resident of Village-Dhabauli, P.S.-Sour Bazar, District-Saharsa.
2. Mukesh Kumar Singh @ Mukesh Singh Son of Banarsi Singh Resident of Village-Dhabauli, P.S.-Sour Bazar, District-Saharsa.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shiva Shankar Sharma, Adv.

For the Opposite Party/s : Mr.Ramchandra Sahni, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

6 10-05-2022 The applicants/accused in Crime No. 463 of 2019 registered with Sour Bazar Police Station for the offences punishable under Sections 302 read with 34 of the Indian Penal Code, by this application are seeking their release on bail during pendency of the trial. Their first bail application was disposed of by the Co-ordinate Bench of this Court with a direction that if the trial is not concluded within the period of six months then the applicants shall have liberty to renew the prayer for their bail. This happened on 23.06.2020 and it is reported by the parties that the trial is not yet concluded despite lapse of about two years.

Heard the learned counsel appearing for the



applicants. He drew my attention to the statement of Gita Devi dated 21.11.2019 which was recorded by the S.H.O. Patarghat Outpost and forwarded to Station House Officer, Saur Bazar Police Station, Saharsa which was considered as the FIR of the subject crime. Thereafter, my attention is drawn to the statement of Niranjana Singh who happens to be husband of Gita Devi and father of deceased Kamlesh Kumar Singh recorded by ASI Shiv Kumar Yadav Madhepura police station at Sadar Hospital, Madhepura for treating it as the FIR at 4:20 hours of 21.11.2019. It is argued that both these versions are contradictory.

The learned Additional Public Prosecutor opposed the application by contending that the offence is serious.

I have considered the submissions so advanced and perused the material placed before me.

The investigating agency has considered statement of Gita Devi-mother of deceased Kamlesh Kumar Singh as FIR of the subject crime. It was recorded on 21.11.2019. Gita Devi claims to be eye witness to the subject crime. She stated that at about 2:00 A.M. of 20.11.2019, accused persons namely Nitesh Kumar Singh, Mukesh Kumar Singh, Pankaj Kumar Singh and their father Banarsi Singh entered in their newly



constructed house. She further stated that after hearing some sound, she wake up. Her husband Niranjan Singh also wake up and they both saw their son Kamlesh Kumar Singh lying dead in the adjacent room. She claimed that all four accused persons were present in that room and they had assaulted her as well as her husband Niranjan Singh by means of bricks and thereafter ran away.

It is seen that accused Banarsi Singh is brother of Niranjan Singh and rest of the accused persons including the present applicants are son of Banarsi Singh. The first informant Gita Devi claims to be an eye witness to the incident.

It appears that statement of Niranjan Singh was recorded at Sadar Hospital, Madhepura by ASI Shiv Kumar Yadav when he had taken his son Kamlesh Kumar Singh for medical treatment at that hospital. Statement of Niranjan Singh was recorded in presence of his brother Banarsi Singh who is arrayed as an accused in the instant case. Banarsi Singh is a witness to the statement of Niranjan Singh recorded at the hospital. In his statement, Niranjan Singh who happens to be father of deceased Kamlesh Kumar Singh has stated that in the night intervening 20.11.2019 and 21.11.2019, his wife Gita



Devi told him that thieves have entered in their house and they are assaulting Kamlesh Kumar Singh. He claimed that at about 2:00 A.M he and his wife Gita Devi saw their son Kamlesh Kumar Singh lying on the bed with injury to right side of his head and a brick stained with blood was lying there. Niranjana Singh claimed that then he along with his neighbour took Kamlesh Kumar Singh to the Sadar Hospital, Madhepura but his son died. Niranjana Singh stated that he had not seen any body assaulting his son Kamlesh Kumar Singh. Though his brother Banarsi Singh was present with Niranjana Singh, Niranjana Singh has not made any accusation against Banarsi Singh or his sons in his statement recorded by ASI Shiv Kumar Yadav.

These are two sets of version of prosecution case coming on record from the parents of deceased Kamlesh Kumar Singh. The applicants are nephew of Niranjana Singh who is father of deceased Kamlesh Kumar Singh. Niranjana Singh has not attributed any role to the subject crime to the present applicants, though his wife who claims that she has seen the incident with Niranjana Singh.

In the wake of this evidence against the applicants, their further pre-trial detention is not warranted and as such the



order :-

i. The application is allowed.

ii. The applicants/accused in Crime No. 463 of 2019 registered with Sour Bazar Police Station for the offences punishable under Sections 302 read with 34 of the Indian Penal Code, be released on bail on executing P.R. bond of Rs. 10,000/- (Rupees Ten Thousand) each on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicants/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against them so as to dissuade them from disclosing such facts to the Court or to any police officer.

(II) The applicants/accused should cooperate the trial court in expeditious disposal of the trial against them.

(III) The applicants/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicants should not repeat commission of similar offence in future and if they are found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicants



in the instant case.

The applicants to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the applicant/accused.

After dictating this order the learned counsel for the first informant comes and states that recording of evidence is over in this case. The same is noted.

(A. M. Badar, J)

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