

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21163 of 2021

Arising Out of PS. Case No.-250 Year-2019 Thana- BARUN District- Aurangabad

1. SUSHMA KUMARI Daughter of Late Naresh Sharma Resident of Village - Munshi Bigha, P.S. - Barun, District - Aurangabad, Bihar.
2. Reshma Kumari Daughter of Late Naresh Sharma Resident of Village - Munshi Bigha, P.S. - Barun, District - Aurangabad, Bihar.
3. Radha Mohan Sharma Son of Late Naresh Sharma Resident of Village - Munshi Bigha, P.S. - Barun, District - Aurangabad, Bihar.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Santosh Kumar Pandey, Advocate
For the Opposite Party	:	Mr. Nityanand Tiwary, APP
For the informant	:	Mr. Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 17-10-2022 Heard learned counsel for the petitioners and the State.

The petitioners are apprehending their arrest in connection with Barun P.S. Case No. 250 of 2019 initially registered under Sections-342, 324, 307, 34 of the Indian Penal Code and later on, after death of the victim, Section-302 of the Indian Penal Code was also added on the prayer of the I.O.

Allegedly, K. oil was poured on the body of the victim/deceased and thereafter, she was ablazed, as a result of which, she sustained burn injuries and later on, in course of treatment, she succumbed to the injuries.



It has been submitted on behalf of the petitioners that the petitioners have got no criminal antecedent. There is no allegation of tampering alleged against the petitioners. The petitioners have falsely been implicated in the present case. The petitioner Nos. 1 & 2 are ladies. Though the F.I.R. was instituted for an offence under Section-307 of the Indian Penal Code but later on, after lapse of five days, the victim succumbed to the injuries and Section-302 of the Indian Penal Code was added in the present case. The occurrence is said to have taken place on 06-09-2019. The victim was taken to hospital for treatment but subsequently on 11-09-2019, she succumbed to the injuries. Her fardbeyan was recorded on 10-09-2019 i.e. four days after the occurrence. There is no explanation as to why the fardbeyan of the victim was recorded after four days of the alleged occurrence. There is nothing on record to show that four days after occurrence, the victim was in a condition to make her statement. Such statement appears to be doubtful and same cannot be treated to be dying declaration. It has further been submitted on behalf of the petitioners that in paragraphs-23, 24, 26, 27 & 28 of the case diary, the independent witnesses have stated that the deceased had committed suicide. Considering the same, at best, a case for the offence under Section-306 of the



Indian Penal Code is made out. The other co-accused persons have already been granted bail in the present case.

On behalf of the State and the counsel for the informant, it is submitted that petitioners are named in the F.I.R. Specific allegation has been made against the petitioners. It is a case of dying declaration.

Considering the aforesaid facts and circumstances coupled with the fact that there is delay of four days in recording the statement of the victim/deceased, let the petitioners named above, in the event of arrest or surrender within a period of twelve weeks, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Aurangabad in connection with Barun P.S. Case No. 250 of 2019 subject to the conditions as laid down under Section-438(2) of the Cr.P.C.

(Sudhir Singh, J)

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