

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15542 of 2022

Arising Out of PS. Case No.-871 Year-2021 Thana- FORBESGANJ District- Araria

1. Bablu Dharkar.
2. Yogendra Dharkar.
Both Son of Late Fuleshwar Dharkar.
Both are Resident of Village-Simraha Coloney, ward no.13, P.s.- Forbesganj
(Simraha), Distt.- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh, Adv.

For the Opposite Party/s : Mr. Murli Dhar, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

- 3 16-08-2022 Heard learned counsel for the petitioners and the learned
APP for the State.

Let the defect(s) be removed within four weeks of the
complete start of the physical Court in normal course.

The petitioners are in judicial custody in connection with
S.T. No.68/2022 arising out of Forbesganj (Simraha) P.S. Case
No.871 of 2021 instituted under Sections 302, 201/34 of the Indian
Penal Code.

In this case, case diary as also criminal antecedent report
was called for on 11.07.2022, the same has been received.

As per the FIR, the ‘Chowkidar’ Bindeshwari Paswan
lodged FIR on 29.10.2021 stating therein that when he was going
towards ‘Mahal’ he saw a body in a ditch. Accordingly, the police
was informed, the body was recovered and FIR lodged against



unknown. Subsequently, the family members of Chandan Dharkar recognized the body. The police during investigation recorded the statement of the wife of deceased Chandan Dharkar on 14.11.2020 who alleged that these two petitioners who are brothers were last seen with her husband and they had taken liquor at the shop of Fagu Rishi and has alleged that these two may be the real culprits behind the occurrence. She has further narrated that upon coming to know that these two petitioners had taken liquor with the deceased, they visited the petitioner's resident and was informed that they have gone to Siliguri, subsequently they were requested to come back and they promptly returned on 15.11.2020 whereafter the police arrested them on 18.11.2020 (as stated in para-17 of the bail application).

Learned counsel for the petitioners submit that a bare perusal of of the statement made by the wife of the deceased would show that immediately upon information on 14.11.2021, the two petitioners duly returned to the place on 15.11.2021 which clearly shows that they were not absconding and submitted themselves before the police. He submits that taking into account the fact that there is no eyewitness to the occurrence and they are in custody since 18.11.2021, they deserve bail.

Considering the aforesaid fact as also that the petitioner is in custody since 18.11.2021, there is no eyewitness to the occurrence, as also that the petitioners do not have the criminal antecedent and the charge-sheet stands submitted, this Court is inclined to grant them



privilege of bail.

Let both the petitioners be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each in connection with S.T. No.68/2022 arising out of Forbesganj (Simraha) P.S. Case No.871 of 2021 to the satisfaction of learned Sessions Judge, Araria, subject to following conditions:

(i) one of the bailor should be the family member of the petitioners, who shall provide official document to show his/her bona fide;

(ii) the petitioners shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reasons will entail cancellation of their bail by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every month for next six months to mark their presence;

(iv) the petitioners shall desist from committing any criminal offence again failing which the State shall be at liberty to steps for cancellation of their bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

Prakash Narayan /-

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