

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28151 of 2021

Arising Out of PS. Case No.-305 Year-2020 Thana- HUSSAINGANJ District- Siwan

SHARWAN KUMAR GOND @ SHARWAN KUMAR S/o- Late Srinath Sah
Gond Resident of Village - Tikri, P.S. - Hussainganj, Dist. - Siwan.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 64041 of 2021

Arising Out of PS. Case No.-305 Year-2020 Thana- HUSSAINGANJ District- Siwan

SANTOSH KUMAR GOND @ SANTOSH GOND Son of Late Sri Nath
Gond @ Sri Nath Sah Resident of Village - Tikari, P.S. Hussainganj, District -
Siwan, Bihar.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 28151 of 2021)

For the Petitioner/s : Mr. Y C Verma, Sr. Adv.

Mr.Ashok Kumar

For the Opposite Party/s : Mr. Amitesh Kumar

(In CRIMINAL MISCELLANEOUS No. 64041 of 2021)

For the Petitioner/s : Mr.Prashant Kumar

For the Opposite Party/s : Mr.Umeshanand Pandit

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

4 24-02-2022 Heard Mr. Y.C. Verma, learned senior counsel for the

petitioner in Cr. Misc. 28151 of 2021 and Mr. Prashant Kumar,

learned counsel appearing for the petitioner in Cr. Misc. 64041

of 2021.

Since both the applications for bail arise out of the



same Hussainganj PS Case No. 305 of 2020 as such both were taken up together and are being disposed of by this common order.

Petitioners seek regular bail in connection with Hussainganj PS Case No. 305 of 2020 registered for the offence under Section 302, 201, 34 of the IPC.

As per the first information report on 30-10-2020 the son of the informant was going on a cycle for some purpose and in the meantime the informant also came out from his house for attending nature's call. When they reached near the canal informant saw that petitioner along with other accused persons were dragging the son of the informant and were taking him towards their house and when the informant objected, they on the point of pistol and other weapon asked the informant to disclose the whereabouts of the daughter of the petitioner Sharwan Kumar Gond @ Sharwan Kumar and the son of the informant Govinda inasmuch as they were having love affair. It has further been alleged that when the accused persons did not release the son of the informant, in the evening they reached the house of the accused persons where the petitioner Santosh Kumar Gond @ Santosh Gond in 2nd case i.e. Cr. Misc. No. 64041 of 2021 and other abused them and asked them to go



away saying that unless the whereabouts of Govinda and Sapna Kumari were not disclosed, the deceased (i.e. son of the informant) would not be released. In the FIR it has also been stated that thereafter the informant informed the Hussainganj Police Station upon which the Police party arrived at in the village and enquired from the accused persons and gave assurance to the informant that his son would be released. However on 02 / 11/ 2020 at about 7.00 in the morning dead body of the informant's son was found near the canal. The informant has alleged that it is a case of honour killing due to love affair between the son of the informant and the daughter of the petitioner Sharwan Kumar Gond.

Mr. Verma, learned senior counsel as well as Mr. Prashant Kumar, learned counsel for the petitioners appearing in both the cases jointly submit that the present FIR has been lodged without any basis and is based upon a concocted story inasmuch as earlier Hussainganj PS Case No. 208 of 2019 was lodged by the grandmother of Sapna Kumari alleging that her granddaughter i.e. daughter of the petitioner in the 1st case was kidnapped / abducted by Govinda (another son of the informant). However, the girl was recovered and her statement under Section 164 CrPC was recorded on 19 / 09 / 2019 in



which she has stated that she has solemnized marriage with the son of the petitioner Govinda and has been residing in Punjab peacefully. The submission advanced on behalf of the petitioners is that the motive assigned in the FIR regarding honour killing is not *prima facie* substantiated inasmuch as the daughter of the petitioner was kidnapped / abducted much earlier prior to the date of present occurrence and recovered and her statement under Section 164 of the CrPC was recorded in the year 2019 itself. Learned counsel further submits that as per the FIR the informant on the date of alleged captivity of his son i.e. 30 – 10 – 2020 had informed the Police regarding the incident and the Police had arrived but no material in this regard had been collected and there is no evidence against the petitioners from station diary and other documents collected by the Police during the course of investigation. It has come to surface that the Police was informed by the informant and had arrived in the evening of the date of occurrence. The dead body was found after two (02) days from the date of alleged occurrence near a canal and no action whatsoever was taken by the informant for more than two (02) days regarding the alleged captivity of the informant's son by the accused persons and after the dead body was recovered the present FIR has been lodged.



Learned counsel submits that petitioners have been dragged in this case on the basis of circumstantial evidence and prima facie the chain of circumstances is not completed. They are in custody since 05 / 11 / 2020 and 19 – 07 – 2021 , charge sheet has already been submitted and petitioners are having no criminal antecedent.

Regard being had to the submissions made by the parties, taking into consideration the fact that the allegation is based on circumstantial evidence , the FIR has been lodged after recovery of dead body whereas the son of the informant was allegedly kidnapped and kept in captivity by the petitioners and others three (03) days prior to the recovery of dead body , they are in custody since 05 / 11/ 2020 and 19-07-2021 having no criminal antecedent, charge sheet has already been submitted, I am inclined to grant regular bail to the petitioners.

Let the petitioners Sharwan Kumar Gond @ Sharwan Kumar in Cr. Misc. 28151 of 2021 and Santosh Kumar Gond @ Santosh Gond in Cr. Misc. No. 64041 of 2021 be released on regular bail on furnishing bail bond of Rs. 20000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of learned A.C.J.M. XIIITH Siwan and ADJ -IX, Siwan in connection with Hussainganj PS Case No. 305 of 2020



on the following conditions:-

(a) that the petitioners shall remain present on each and every date during the trial and in the event of their absence on two consecutive dates without permission of the trial court, their bail bond shall liable to be cancelled.

(Anil Kumar Sinha, J)

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