

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37256 of 2021

Arising Out of PS. Case No.-21 Year-2021 Thana- KUNDWACHAINPUR District- East Champaran

-
1. UMESH SAH Son of Gauri Sah Resident of Ward No.-1, Kundawa Chainpur, P.S.- Kundawa Chainpur, District- East Champaran, Bihar
 2. DEEPAK KUMAR SAH @ DIPESH KUMAR SAH Son of Gauri Sah Resident of Ward No.-1, Kundawa Chainpur, P.S.- Kundawa Chainpur, District- East Champaran, Bihar

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mukesh Kant, Adv.
For the Opposite Party/s	:	Mr. Bal Mukund Prasad Sinha, APP
For the informant	:	Mr. Binod Kumar Singh, Adv.
		Mr. Nikhil Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

6 08-02-2022 Heard learned counsel for the parties through video conferencing.

The petitioners have preferred this application for grant of regular bail in a case registered under sections 302, 376 D, 149, 342, 450, 201 and 120B of the Indian Penal Code to which sections 4 and 5 of the POCSO Act was added subsequently.

As per the prosecution case, the twelve year old daughter of the informant was alone at home. It is stated that while the son of the informant was returning home from Bazar the accused Siya Ram Sah asked him not to go home. On



reaching his house, the son of the informant saw his sister on the ground. He ran, shouting and searching for the informant. On receiving information, the informant returned home and saw his daughter to have died and there was a mark around her neck. She was taken to the doctor. It is stated that Jai Prakash Sah started to say that an expense of Rs. 4-5 lacs would be incurred in the treatment. On the informant's son making an attempt to inform his relatives, it is stated that Hari Kishore Sah snatched his mobile phone. Thereafter Deepak Kumar Sah, Milan Sah, Vinay Sah, Ajay Sah, Ramesh Sah, Umesh Sah, Sunil Sah and Devendra Kumar Sah started to force the informant that he should cremate the body and that nobody should be told that she was murdered. They should be informed that she died as a result of cold. The informant and his son were also threatened. Awanish Kumar Sah took thumb impression of the informant on blank piece of papers. Thereafter it is stated by the informant that they forced the informant to take the body and got the same cremated. On returning, the informant was forced out of the house and sent to Nepal. He was threatened that he and his son would be killed if they returned.

It is submitted by learned counsel for the petitioners that the petitioners are innocent and have been



falsely implicated in the case. There is a delay of 12 days in lodging of the F.I.R. with no reasonable explanation for the same. There is no eye witness to the alleged occurrence. Contradictory stands have been taken in the F.I.R. The petitioners have not been named by the informant and his son in their statement under section 164 Cr.P.C. Coaccused Ajay Sah has been enlarged on bail vide order dated 16.11.2021 passed in Cr. Misc. no.38350 of 2021. The petitioners are in custody since 20.2.2021 and have no criminal antecedent. Chargesheet has been submitted in the case.

The application for bail is opposed by learned A.P.P. for the State and learned counsel for the informant. Learned counsel for the informant submits that the offence is heinous in nature, the delay was on account of threat given by the accused persons and the evidence was tampered with by the accused.

Having heard learned counsel for the parties and taking into consideration the facts of the case, the informant and his son not naming the petitioner in their statement under section 164 Cr.P.C. together with the petitioners having remained in custody for over 11 months, chargesheet having been submitted in the case and grant of bail to the above named coaccused Ajay Sah, the Court



directs the petitioners to be enlarged on bail in connection with Kundwa Chainpur P.S. Case no. 21 of 2021 on each of them furnishing bail bond of Rs.10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, East Champaran.

(Partha Sarthy, J)

Bibhash/-

U			
---	--	--	--

