

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43254 of 2021**

Arising Out of PS. Case No.-74 Year-2020 Thana- KANHauli District- Sitamarhi

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1. SHYAM SAH @ SHYAM KUMAR SAH, Son of Nandlal Sah
 2. Ram Kumar Sah, Son of Nandlal Sah
 3. Dilip Sah, Son of Nandlal Sah
All Resident of Village - Marpa, P.S.- Kanhauli, District - Sitamarhi.
- Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Pushpendra Kumar Singh, Advocate
For the Opposite Party/s : Mr.Anand Mohan Prasad Mehta, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 23-02-2022 Heard learned counsel for the petitioners and Mr.
Anand Mohan Prasad Mehta, learned A.P.P. for the State.

Petitioners, in the present case, are seeking regular bail in connection with Kanhauli P.S. Case No. 74 of 2020 registered for the offences punishable under Sections 498A, 302/34 of the Indian Penal Code . They are in custody since 28.01.2021 and 17.01.2021 respectively. They have otherwise no criminal antecedent as stated in paragraph ‘3’ of the application.

Petitioner nos. 1 & 2 are the Bhaisur (elder brothers of the husband) whereas petitioner no. 3 is the Dewar (younger brother of the husband) of the deceased. Marriage of the deceased was solemnized with the son of co-accused Nandlal



Sah namely, Ram Vinay Sah in the year 2005. She had given birth to three sons. It is alleged that on 19.06.2020, the deceased had given a call to her father and asked him to come soon otherwise she apprehended her killing. Father of the deceased told her that he would come in the morning. In the morning the father, who is informant in this case, received an information that his daughter has been killed.

Learned counsel for the petitioners submits that these petitioners have been falsely implicated in this case because they happened to be the co-sharers and, according to him, the daughter of the informant had committed suicide. In course of investigation, police has submitted a charge-sheet under Section 306/34 of the I.P.C.

Learned counsel submits that no independent material has been collected in course of investigation to support the prosecution case as against these petitioners who are living separately in mess and business and they got no concern with the family of the deceased.

On the other hand, Mr. Anand Mohan Prasad Mehta, learned A.P.P. for the State has opposed the prayer for regular bail of these petitioners. It is submitted that in the F.I.R. it is alleged that these petitioners had killed the daughter of the



informant by throttling her neck, and, in course of investigation, the eldest son of the deceased, who is about six years, has also stated that the petitioners had caused death of her mother by throttling her neck.

Learned A.P.P. has however after going through the case diary submits that the doctors have found it a case of death by hanging with a rope like substance and the injury does not suggest that there was any compression or throttling on the neck portion.

Having regard to the submissions and materials in which this court finds that on careful appreciation of the materials particularly the statement of the child the same does not find support from the medical evidence, the death according to the doctors has taken place due to hanging with a rope meaning thereby that by suspending the body by a rope, no constriction by pressure of the fingers has been seen by the doctors and these petitioners are co-sharers of the husband of the deceased who are said to be living separately in mess and business, they have remained in custody for over one year and their presence may be secured in course of trial, this Court directs release of the petitioners above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five



Thousand only) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate–V, Sitamarhi in connection with Kanhauli P.S. Case No. 74 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioner have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J.)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

