

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51498 of 2021

Arising Out of PS. Case No.-41 Year-2019 Thana- KHUTAUNA District- Madhubani

1. Ram Pravesh Mahto Son of Ghuran Mahto Permanent Resident of Bhaduar, P.S. Rudrapur, District - Madhubani. At present residing at H.No. 26, Gali No. 29, A-1, Block, Bangali Colony, Sant Nagar Burari, Delhi.
2. Ram Prasad Mahto Son of Ghuran Mahto Permanent Resident of Bhaduar, P.S. Rudrapur, District - Madhubani. At present residing at H.No. 26, Gali No. 29, A-1, Block, Bangali Colony, Sant Nagar Burari, Delhi.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Jitendra Singh, Sr. Advocate
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 11-05-2022 Heard Mr. Jitendra Singh, Senior Counsel for the petitioners and Mr. Jitendra Kumar Singh, learned APP who represents the State.

Let the defect(s), if any, as pointed out by the office be removed within a period of four weeks.

The petitioners are in judicial custody in connection with Khutauna P.S. Case No. 41 of 2019 registered under sections 302, 201 and 120(B) of the Indian Penal Code.

The prosecution case, as it unfold in the FIR is that the informant's younger brother who studied in Madhubani and was likely to join as a Physical Teacher had come to home to



celebrate Holi festival. He went out to a nearby place to go through newspaper but failed to return home.

Later, search was made and his brother was found hanging from a tree. The informant alleged that his marriage was solemnized 17 years ago with Rekha Devi who however was residing at her “Maika” and regularly threatening him of dire consequences. He as such believed that in connivance with her family members including the brothers herein, they might have eliminated him.

Learned counsel for the petitioners submit that during the course of investigation, upon the application submitted by the petitioners’ father, the police visited Delhi and found that the two petitioners herein were actually residing at Delhi and the tower location also disclosed their presence there on the fateful day.

Taking into account the aforesaid facts, this Court on 31.3.2022 had called for the case diary which has been received and perused by the learned APP.

Mr. Jitendra Singh, the learned Senior Counsel for the petitioner submits that para-21 and 26 of the case diary clearly support the petitioners’ version that on the date of occurrence they were working as employees with separate agency in Delhi



which the police verified and has been incorporated in the case diary. He as such submits that they have wrongly been dragged in this case.

The learned APP has gone through the case diary and has accepted the fact that the two different employers have stated before the police (who were visited Delhi) that at that particular point of time, they were working under them.

Taking into account the aforesaid facts that tower location of the two petitioners as well as statements of their respective employers show that the petitioners were not present at the place of occurrence, charge-sheet has already been submitted and they are in custody since 11.4.2021 (as stated in para-28 of the bail application), this Court is inclined to grant them the privilege of bail.

Let the petitioners be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Jhanjharpur, in connection with Khutauna P.S. Case No. 41 of 2019 subject to the following conditions:-

(i) 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 their cancellation of



bail by the Trial Court itself;

(ii) they shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of their bail bonds.

Nothing stated in this order shall come in the way of trial as and when it is taken up which shall be decided on its own merit.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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