

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58037 of 2021

Arising Out of PS. Case No.-43 Year-2020 Thana- GAIGHAT District- Muzaffarpur

Amit Sahni S/O Ram Ashish Sahni Resident of Village- Satghatta, P.S.-
Gaighat, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 60857 of 2021

Arising Out of PS. Case No.-43 Year-2020 Thana- GAIGHAT District- Muzaffarpur

1. Gagan Sahani S/o- Wakil Sahni R/o- Village - Satghatta, P.S. - Gaighat,
District - Muzaffarpur.
2. Mukesh Sahani S/o- Nagendra Sahani R/o- Village - Satghatta, P.S. -
Gaighat, District - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 58037 of 2021)

For the Petitioner/s : Mr.Mahendra Thakur

For the Opposite Party/s : Mr.Chandra Sen Prasad Singh

(In CRIMINAL MISCELLANEOUS No. 60857 of 2021)

For the Petitioner/s : Mr.Alok Kumar Alok

For the Opposite Party/s : Mr.Arun Kumar Singh

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 18-05-2022 Let the defects, if any, be removed within four weeks
from today.

Heard Mr. Mahendra Thakur, learned counsel for the
petitioners as well as Mr. Chandra Sen Prasad Singh learned
Additional Public Prosecutor for the State.



With the consent of the parties, both the applications are being heard together and disposed of by this common order.

Petitioners seek bail in a case registered in connection with Gaighat P.S.Case No. 43 of 2020 for the offences punishable under Sections 328, 302/34 of the Indian Penal Code.

As per the prosecution case, it is alleged that on 02.02.2020, all the accused persons including the petitioner went out from the house for the purpose of dancing and beating drum on the occasion of Sarswati Puja. It is also alleged that his son was also engaged in this type of work. In the evening, during the course of distribution of money, the accused persons committed mar-pit due to which foam started coming out from the mouth and nostril of his son, and later on he died. It is also alleged that she informed the local Mukhiya, who informed the police and thereafter, the police came and taken away the dead body of his son for post mortem examination.

Learned counsel for the petitioners submits that occurrence is said to have taken place on 02.02.2020 and on the same day information has been given to the local police, who came to the house of the informant and thereafter the inquest report had been prepared on 02.02.2020 itself, by the ASI of



Gayaghat, Police Station but surprisingly, the statement of the informant has not been recorded by the police officials nor she get her fardbeyan recorded. It is further submitted that FIR has been instituted on 05.02.2020 and sent to the learned Magistrate on 11.02.2020. It is further submitted that without instituting the FIR, the dead body has been sent for post mortem examination and thereafter, the informant has given written report on 05.02.2020 on the basis of which this substantive FIR has been registered. It is next submitted that there appears to be no eye witnesses to the alleged occurrence and only because of the fact that they were used to dance and beating drums together the name of the petitioners were implicated. It is next submitted that the petitioners have clean antecedent and petitioner Amit Sahni is in custody since 12.01.2021 and petitioner Gagan Sahni and Mukesh Sahni are in custody since 14.06.2021.

The learned A.P.P opposed the prayer for bail of the petitioners and submits that there is specific allegation against these petitioners that they were in conspiracy to each other assaulted the deceased and administered poison due to which he died. It is also submitted that during the course of investigation, witnesses have supported the prosecution case. He next submitted that only because of the laches on the part of the



police officials no benefit is to be given to the accused persons.

Having heard the rival contentions of the parties and taking into consideration the fact that occurrence had taken place on 02.02.2020 and on the same day, the inquest report has been signed and prepared by the police officials in the house of informant but at no point of time the informant get her fard beyan recorded and the FIR has been instituted on the basis of written application given by the informant on 05.02.2020. Apart from the fact these petitioners have clean antecedent and are in custody for a substantive period of about one year, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-XIIII, Muzaffarpur in connection with Gaighat P.S.Case No. 43 of 2020, subject to the condition that one of the bailors will be the close relatives of the petitioners with further conditions which are as follows:-

(i) The petitioners will cooperate in conclusion of the trial. (ii) They will remain present on each and every date of trial till disposal of the case.

(iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.



(iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(Harish Kumar, J)

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