

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68553 of 2021

Arising Out of PS. Case No.-25 Year-2021 Thana- KARANDAY District- Sheikhpura

1. JOGINDER MAHTO Son of Dukhan Mahto Resident of Village - Chhathira, P.s.- Karendey, Distt.- Sheikhpura.
2. Kamlesh Mahto @ Kamo Mahto Son of Joginder Mahto Resident of Village - Chhathira, P.s.- Karendey, Distt.- Sheikhpura.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Sheo Nandan Prasad, Adv.
For the Informant	:	Mr. Bharat Lal, Adv.
For the State	:	Mr.Chandra Sen Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 20-09-2022 Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

Heard learned counsel for the petitioners and learned A.P.P. for the State.

The petitioners seek bail in connection with Karandey P.S. Case No. 25 of 2021 registered for the offences punishable under Sections 302, 201, 34 of the Indian Penal Code.

As per prosecution case, on 30.07.2021 at 6 O'clock informant Sarita Devi was working with her husband in the field. When informant was coming back to her house, she told her husband to accompany her then informant's husband



told that he will come back after harvesting 5-6 line of paddy crop. Thereafter informant went to her house and her husband did not return within two hours, then informant along with whole family searched till 1 AM, but her husband was not traced. It is further alleged that on 31.07.2021 at 6 O'clock her brother-in-law Bipin Mahto went to Dillu Coal Khanda searching him and found her husband dead in the well. It is further alleged that 8 days earlier to the occurrence altercation between agnates and her husband took place relating to land and petitioner no. 2 and co-accused Ajay Mahto had told that they will not go to Mumbai unless they kill the informant's husband. It is also alleged that the present petitioners, co-accused Ajay Mahto and other unknown have committed the murder of the husband of the informant.

Learned counsel for the petitioners submits that petitioners are in custody since 31.07.2021. Petitioners bear no criminal antecedent. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. There is no eye witness of the alleged occurrence. The informant lodged the case against the petitioners only on suspicion. Both the parties are agnates. There is land dispute between both the parties. So far as the allegation



of threatening is concerned, no sanha is available on record. There is nothing on record to demonstrate the complicity of petitioners with the alleged occurrence. He further submits that as per postmortem report, no external injury on the body of deceased has been found and cause of death of deceased was due to mechanical asphyxia and neurogenic shock caused by mugging.

The learned counsel for the informant and learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioners.

Considering the facts and circumstances of the case, period of custody, argument advanced on behalf of both sides, keeping in view clean antecedent of petitioners and also taking into consideration the material available on record, let the petitioners above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate Ist class Sheikhpura in connection with Karandey P.S. Case No. 25 of 2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn



the affidavit in bail application.

(ii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iv) Petitioners shall not leave the territorial jurisdiction of the concerned trial court without appropriate permission of the court concerned.

(Alok Kumar Pandey, J)

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