

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71427 of 2021

Arising Out of PS. Case No.-191 Year-2016 Thana- ATRI District- Gaya

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1. SAURAV KUMAR S/o Mr. Lal Prasad Singh @ Lalan Singh R/o village-Cheya, P.S.- Atri, District- Gaya
 2. GAURAV KUMAR S/o Mr. Lal Prasad Singh @ Lalan Singh R/o village-Cheya, P.S.- Atri, District- Gaya

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Senior Advocate
For the Opposite Party/s : Mr. Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 06-09-2022 Heard Mr. Ajay Kumar Thakur, learned Senior Counsel for the petitioners and Mr. Jitendra Kumar Singh, learned APP for the State.

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

The case is registered under sections 302, 201 of the Indian Penal Code, in connection with Atri P.S. Case No. 191 of 2016.

On 26.5.2022, this Court had called for the case diary/criminal antecedent report of the petitioners in connection with Atri P.S. Case No. 191 of the 2016.

As per office report dated 2.9.2022, pursuant to



the order dated 26.5.2022, the case diary has been received but no criminal antecedent report has come. The office has also marked flag 'A' to the forwarding letter sent by learned Additional Sessions Judge, XV, Gaya vide letter No. 102 dated 2.8.2022, according to which vide letter no. 101 dated 2.8.2022. the Senior Superintendent of Police, Gaya has been asked to send criminal antecedent report of the petitioners.

It is surprising that the order was passed on 26.5.2022 for sending case diary and criminal antecedent report of the petitioners to the office of Patna High Court. Accordingly, the office made request to the concerned judgship. However, it was two months later that the letter no. 101 dated 2.8.2022 was sent requesting the S.S.P., Gaya to send criminal antecedent report. Thus, when this case has been taken up there is no criminal antecedent report available on record and the matter is being adjudicated in its absence. Accordingly, the learned Additional Sessions Judge-XV, Gaya is directed to submit show cause as to when did the office received letter of Patna High Court and/or delay of more than two months in asking the S.S.P., Gaya to send report.

So far as the present case is concerned, as per



the FIR, the 'Choukidar' lodged the Fard-beyan on 12.9.2016 that while he was on duty, he received information that a dead body is lying on the shore of 'Aahar'. The senior officials recovered the dead body of unknown person aged 30 years. This led to lodging of Atri P.S. Case No. 191 of 2016.

In this case, case diary as well as criminal antecedent report was called for on 26.5.2022. Although, the case diary has been received, the criminal antecedent report has not been sent, for which, as stated above, an explanation has been sought for from the concerned court.

The police investigated the matter and the different paragraphs of the case diary supports the allegation of the father of the deceased that he was called by the two petitioners herein to take back the amount (Rs. 8000/-) which was taken by them from his son and the cheque that was issued in lieu of that he was asked to bring back when the payment is to be made. One Vidya Kumar had seen them together and the deceased had told him that he was going to Gaya after collecting the amount he will return to Patna and stay at his house.

The prosecution case has also been supported by



some of the witnesses namely Vidya Kumar, Ram Pravesh Singh and Abhisekh Kumar on the basis of information gathered by the co-villagers.

Be that as it may, the matter is of 2016. The two petitioners evaded arrest inasmuch as on 23.8.2017, name of the petitioner came up in the supervision report. On 12.3.2018, the posters were out against them for getting any information. On 4.6.2018, the house of the petitioners was raided but it was only on 27.7.2021 that they finally came into judicial custody.

Considering all the aforesaid facts including the fact that two petitioners evaded arrest for five long years, this Court is not inclined to grant them any relief and the bail application is hereby rejected.

Let a copy be sent to the learned District Judge, Gaya for his perusal and necessary action.

(Rajiv Roy, J)

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