

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81850 of 2019

Arising Out of PS. Case No.-291 Year-2019 Thana- KHUSRUPUR District- Patna

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1. SHEOJEE MAHTO @ SHEOJEE NONIA S/o Sahdeo Nonia R/o village- Powari, P.S.- Harnaut, District- Nalanda
 2. Lambu Mahto @ Lambu Nonia S/o Sheojee Nonia R/o village- Powari, P.S.- Harnaut, District- Nalanda

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rabindra Prasad Singh
For the Opposite Party/s : Mr.Aditya Narayan Singh.1

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

8 17-01-2022 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State through video conferencing.

The petitioner apprehends his arrest in connection with Khushrupur P.S. Case No. 291/2019 registered for the offences punishable under Sections 304(B)/201/120(B) of the Indian Penal Code.

The F.I.R. has been registered under Sections 304(B) and other allied sections of the I.P.C. by the informant for killing his daughter. The dead-body of the deceased was taken by the police and postmortem was held. In the post-mortem report, it has come that ligature mark was found on the body of the



deceased and the opinion was that the deceased died because of compression of neck.

The prosecution was gained over the defence and an affidavit was sworn by the informant stating therein that the accused persons have not tortured the deceased for dowry and the F.I.R. was registered as the police had taken the thumb impression of the informant on a blank sheet and the husband of the deceased was innocent.

The informant also appeared during the hearing of the anticipatory bail proceeding of Shankar Mahto (husband of the deceased) and said that he does not know how his daughter has died.

Considering the affidavit and the statement of the informant, learned Mr. Ujwal Kumar Sinha, the then Additional District and Sessions Judge-I, Patna City, on 09.10.2020 granted regular bail to Shankar Mahto and now Sheojee Mahto @ Sheojee Nonia (Father-in-law) and Lambu Mahto @ Lambu Nonia and [brother-in-law (*Dewar*)] of the deceased had approached this Court for grant of anticipatory bail on their prayer having been rejected by the Additional Sessions Judge, V, Patna City.

Learned counsel for the petitioners relies upon the



order dated 09.10.2020 by which Shankar Matho (husband of the deceased) has been granted regular bail by the then 1st Additional Sessions Judge, Patna City without considering the materials available in the case diary and the postmortem report.

This Court cannot be a mute spectator for a crime having been committed and the informant having been gained over by the accused persons. If the Court shuts his eyes from these acts of the accused persons, then most of the heinous crimes committed in the State shall go unpunished. The duty of the Court is to see that the defence does not tamper with the evidence and if the accused persons are not arrested within a reasonable time after the crime has been committed, there are every chance that tampering of evidence is done by the accused persons. In the opinion of this Court, the police is required to investigate serious cases registered under Sections 302/304(B)/395/396 of the Indian Penal Code and also under POCSO Act within a reasonable period of time.

The police should not wait indefinitely for completion of the investigation.

It has come to the notice of the Court that the police in Bihar wait to submit chargesheet/final form after the accused persons are granted anticipatory bail or they surrender in the



Court below. They wait for the accused persons appearance before the Court and, thereafter, submit the chargesheet/final form. In the opinion of this Court, this method of waiting for the accused to be arrested before submission of chargesheet is faulty. The police is required to conclude its investigation and submit the chargesheet/final form at the earliest. It has been repeatedly observed by the Apex Court that a fair and impartial investigation is the right of the prosecution as well as the accused and delay in concluding the investigation affects the rights of both the parties.

In the present case, the grant of anticipatory bail to the main accused who is the husband of the deceased only on the basis of compromise petition and without considering the other materials available on record is unacceptable and the order dated 09.10.2020 passed by the then Additional District and Sessions Judge, I, Patna City, is, in the opinion of this Court, perverse.

Considering the same, this Court directs for registration of *suo motu* criminal revision for cancellation of regular bail granted to Shankar Matho vide B.P. No. 837 of 2020 by the 1st Additional Sessions Judge, Patna City on 09.10.2020.

Office is directed to register the Cr. Revision and list the



same before appropriate Bench after obtaining orders of Hon'ble the Chief Justice which shall consider the issue whether the bail granted to Shankar Mahto is fit to be cancelled or not.

Considering the materials available on record and the fact that the daughter of the informant was killed and also taking into consideration the postmortem report supports the same, the prayer of these petitioners, above named, for grant of anticipatory bail is rejected.

With the aforesaid orders and directions, this application is dismissed.

A copy of this order be communicated to the Senior Superintendent of Police, Patna, who shall pass necessary orders for conclusion of investigation in serious cases within a reasonable time and the investigation should not be kept pending at the hands of the local police.

Mr. Aditya Narayan Singh, No. 1, Additional Public Prosecutor, shall communicate this order to the Senior Superintendent of Police, Patna on whatsapp.

Office is directed to communicate this order to the Senior Superintendent of Police through FAX.

(Sandeep Kumar, J)

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