

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10996 of 2023

Arising Out of PS. Case No.-156 Year-2021 Thana- PHENHARA District- East Champaran

1. Kanhaiya Sahani, Son of Garbhu Sahani, Resident of Village- Bishunpur Basant, P.O. and P.S.- Phenhara, District- East Champaran
2. Hari Mandal Sahani, Son of Garbhu Sahani, Resident of Village- Bishunpur Basant, P.O. and P.S.- Phenhara, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pravin Kumar, Advocate

For the Opposite Party/s : Mr. Satya Nand Shukla, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 04-05-2023 Heard Mr. Pravin Kumar, learned counsel appearing on behalf of the petitioners and the learned APP for the State.

The petitioners seek regular bail, who are in custody in connection with Phenhara/Fenhara P.S. Case No. 156 of 2021 registered for the offences punishable under Sections 304(B), 120(B), 201/34 of the Indian Penal Code.

It is alleged that the petitioner no. 1 happens to be husband, whereas the petitioner no. 2 is brother-in-law of the deceased. The marriage of the deceased was solemnized with the petitioner no. 1 five years ago. On 18.11.2021, while the village Chowkidar was on patrolling duty, she received an information that the victim has died on account of hanging and when she reached at the place of occurrence, she found that her



dead body was concealed in a bamboo clump and there is an ligature mark on the neck of the dead body. She suspected the hands of the accused persons in committing the murder of the victim. On the basis of the aforesaid written report of the Chowkidar, the present FIR has been drawn and the petitioners have been made accused.

Submission has been made on behalf of the petitioners that there is general and ominous nature of allegation and no specific allegation of either, demand of dowry or torture, has been levelled. Furthermore, during the course of trial, the mother of the victim was examined and she has not made any deposition regarding the torture or assault against any of the petitioners and it has come that the deceased died on account of natural death. He lastly submits that the petitioners are ready to give undertaking that they will fully co-operate in the trial till its conclusion.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the death has occurred within seven years of marriage otherwise then under normal circumstances and, as such, 304(B) is attracted.

Regard being had to the submissions made on behalf



of the parties and considering the fact that there is neither any demand of dowry or torture preceding to the death of the deceased, coupled with the fact that the mother of the victim in her deposition has not stated anything against the petitioners and now they are in custody for over a period of nine months, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate VIII, Motihari, East Champaran in connection with Phenhara/Fenhara P.S. Case No. 156 of 2021, 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.



(v) The court below shall verify the criminal antecedent of the petitioners and in case, at any stage, it is found that the petitioners has concealed their criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioners. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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