

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22013 of 2022

Arising Out of PS. Case No.-417 Year-2021 Thana- PUPRI District- Sitamarhi

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1. SHARMAN MAHTO @ SHRAVAN KUMAR Son of Ganga Mahto
Resident of Pupri, Police Station - Pupari, District - Sitamarhi.
 2. Karn Kumar Mahto @ Karan Kumar Son of Santosh Mahto Resident of
Pupri, Police Station - Pupari, District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate

For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

5 10-01-2023

Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

The Petitioners are apprehending their arrest in a case registered for the offences punishable u/s 302 and 120(B)/34 of the Indian Penal Code.

As per the prosecution case, one Ram Bahadur Mukhiya informed the informant that her daughter was seen talking with the petitioner Sharman Mahto. Thereafter, her



daughter came back home and after taking meal she went to sleep in the night and when the informant woke up, she could not find her daughter on her bed and on search, no trace was found and then the nearby persons informed her that her daughter was in talking terms with the petitioners Sharman Mahto and Karan Kumar Mahto. The informant suspects that the petitioners along with four-five unknown persons kidnapped her daughter, killed her and threw her dead body into water.

Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case on mere suspicion. The 'Last seen theory' cannot be invoked against the petitioners in this case. The informant's daughter left her house on 10.12.2021 at 11 p.m. but her dead body was found on 18.12.2021. Hence, there is a seven-days delay in lodging the F.I.R. against the accused persons. During the aforesaid period no information was given to the police. Time lapses since death is within 72 hours. There is no eye witness of the occurrence. The petitioners have no criminal antecedent as stated in para 3 of the bail petition.

Learned A.P.P. for the State has vehemently opposed the prayer of anticipatory bail of the petitioners by submitting that the cause of death of the deceased is asphyxia leading to



cardiac failure as a result of drowning.

Considering the aforesaid facts and circumstances of the case, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Pupari, Sitamarhi in connection with Pupari P.S. Case No. 417 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure and with a condition:-

1. The petitioners are directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

The application stands allowed.

(Chandra Prakash Singh, J)

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