

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33594 of 2023

Arising Out of PS. Case No.-535 Year-2022 Thana- GORAUL District- Vaishali

1. DEO MAHTO,
2. Prem Mahto,
Both sons of Vilat Mahto R/O Village- Sahpur Khurd, P.S- Goraul (Kathara O.P), Distt.- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar

For the Opposite Party/s : Mr.Kalyan Shankar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 12-07-2023 Learned counsel for the petitioners is permitted to add paras in bail petition during course of the day.

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

The petitioners seek bail in connection with Goraul (Kathara O.P.) P.S. Case No. 535/2022 registered for the offences punishable under Sections 363/120(B)/ 34, 302, 201 of the Indian Penal Code.

As per prosecution case, petitioners and others alleged to have assaulted the informant's husband by administering him toddy and other intoxicated items and since then the informant's husband was found traceless. The informant has suspicion that petitioners alongwith other accused persons concertedly committed the murder of her husband.



Learned counsel for the petitioners submits that petitioners are innocent and have falsely been implicated in this case. The petitioners are languishing in custody since 16.12.2022 and bear no criminal antecedent. He further submits that from perusal of the FIR, it appears that there is no eye witness of the occurrence. Except suspicion there is nothing on record to demonstrate the complicity of the present petitioners with the alleged occurrence. Nothing has been recovered from their possession of the petitioners. He further submits that prudently and pragmatically there are no possibility when marriage party came to the house of the petitioners, they will think to commit such crime. During course of investigation, the I.O. could not collect any legal evidence against the petitioners. He further submits that there is inordinate delay of three days in lodging FIR without giving any satisfactory explanation which makes the prosecution case doubtful and unreliable. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioners.

Considering the facts and circumstances of the case, period of custody, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution



evidence and keeping in view clean antecedent of petitioners, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioners above named 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-I, Vaishali at Hajipur in connection with Goraul (Kathara O.P.) P.S. Case No. 535/2022, 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 without appropriate permission, 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.

(Alok Kumar Pandey, J)

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