

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44555 of 2023**

Arising Out of PS. Case No.-29 Year-2022 Thana- BELA District- Sitamarhi
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1. MD. MOSTAQUE @ MOSTAQUE SHAH @ MD. MOSTAQUE SAH SON OF MD. GOGAL SHAH RESIDENT OF VILLAGE NARANGA, PS- BELA DISTRICT- SITAMARHI
2. SABANA KHATOON @ SABNAM KHATOON WIFE OF MD. MOSTAQUE @ MOSTAQUE RESIDENT OF VILLAGE- NARANGA, PS- BELA DISTRICT- SITAMARHI

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s
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Appearance :

For the Petitioner/s : Mr.Brij Bihari Tiwary
For the Opposite Party/s : Mr.Dr.Mrityunjaya Kr.Gautam
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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

3 11-10-2023 Heard Mr. Brij Bihari Tiwary, learned counsel for the

petitioners and Mr. Dr. Mrityunjaya Kumar Gautam, learned A.P.P.

for the State.

The petitioners apprehend thier arrest in Bela P.S. Case
No. 29 of 2022 registered for the offence under Sections 302, 201
and 34 of the Indian Penal Code.

The petitioners and other accused persons who are
named in the F.I.R. are alleged to have committed murder of son
of the informant.

Learned counsel appearing for the petitioners submits
that the petitioners are innocent and have falsely been implicated
in this case. He further submits that the petitioner No.1 carries



one case other than the present one whereas petitioner No.2 has clean antecedent. He further submits that the petitioners have been made accused in this case on the basis of mere suspicion and it has come during the investigation that the deceased had left his house to meet the co-accused, Muskan Khatun, who is niece of the petitioners as both of them were having love affairs and the informant side have falsely implicated these petitioners in the present case. Save and except the suspicion, no cogent material has surfaced during course of investigation suggesting the involvement of the petitioner in the alleged occurrence. Moreover, co-accused, Muskan Khatoon has already been granted anticipatory bail by the court below vide order dated 05.08.2023 passed in A.B.P. No. 1556 of 2023.

Learned A.P.P. for the State on the basis of material available on record and the case diary vehemently opposed the prayer for bail of the petitioners and submits that number of witnesses have supported the prosecution version and some of the witnesses have seen the petitioner near the place of occurrence.

Considering the facts and circumstances of the case, let the, above named, petitioners, in the event of their arrest or surrender before the court below within a period of four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the



satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Bela P.S. Case No. 29 of 2022, subject to the conditions laid down under Section 438(2) of the Cr.P.C. as also with the following conditions:-

(1) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be canceled by the Court below.

(2) 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.

And, further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed thier criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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