

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44924 of 2023

Arising Out of PS. Case No.-162 Year-2022 Thana- CHAPRA TOWN District- Saran

1. Jitendra Rai @ Jitendra Kumar, Son of Suresh Rai, Resident of Village- Chhota Telpa, Goriya Toli (Police Line), P.O.- Chpra, P.S.- Chapra Town, District- Saran
2. Shailendra Rai @ Shailendra Kumar, Son of Suresh Rai, Resident of Village- Chhota Telpa, Goriya Toli (Police Line), P.O.- Chpra, P.S.- Chapra Town, District- Saran

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Mahesh Narayan Parbat, Senior Advocate Mr. Sanjay Kumar Jha, Advocate
For the Opposite Party/s	:	Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 11-10-2023 Heard Mr. Mahesh Narayan Parbat, learned Senior Counsel assisted by Mr. Sanjay Kumar Jha, learned counsel for the petitioners and Mr. Akhileshwar Dayal, learned APP for the State.

2. The petitioners in the present case are seeking pre-arrest bail in connection with Chapra Town P.S. Case No. 162 of 2022 registered for the offences punishable under Sections 302, 201/34 of the Indian Penal Code. They have no criminal antecedent.

3. As per the prosecution story, the brother of the informant was in love affair with wife of one Wakil Rai and used to drive tempo of Wakil Rai. On 08.03.2022 at about 04:00



P.M., the brother of the informant was called to the house of Wakil Rai and from there he went at Devi Mandir Chowk. At about 10:20 P.M. the informant received a call from Walik Rai and went there but did not return. When the younger brother of the informant came out of the house at about 11:00 P.M., he saw his brother lying dead in the outer *veramdah* of his house. It is alleged that the murder is committed by one Wakil Rai, his wife, Jitendra Rai (petitioner no. 1), Shailendra Rai (petitioner no. 2).

4. Learned Senior Counsel for the petitioners submits that so far as these petitioners are concerned, they have been made accused in course of investigation only because they are the neighbours/co-sharers of the co-accused Wakil Rai. In the FIR, the allegation is that the deceased who was called by said Wakil Rai, on the said call, the brother of the informant had gone to the house of Wakil Rai whereafter he did not return.

5. It is submitted that there is no eye-witness to the alleged occurrence. Nobody has seen these petitioners in the house of said co-accused Wakil Rai and even the informant has not seen as to who had left the dead-body of his brother at the outer *veramdah* of the house on a *chouki*.

6. Learned Senior Counsel submits that in the postmortem report, it has come that the death is by hanging and



there were no external injury on the body of the deceased. Further the D.I.G. in his supervision note has recorded on the basis of the statement of some of the co-villagers that the deceased was addict of wine and gambling and was in tension and depression due to heavy loan on him and in depression he had committed suicide.

7. Learned APP for the State has though opposed the prayer for pre-arrest bail of the petitioners, however, after going through the case diary he does not point out any material in form of statement of any independent witness suggesting involvement of these petitioners. Learned APP submits that there is no eye-witness.

8. Having regard to the facts and circumstances of the case, considering at this stage that there is no eye-witness to the alleged occurrence and the death is said to have taken place due to hanging as also that there was no external injury on the body of the deceased, the appearance of the petitioners can otherwise be secured in accordance with law in course of trial, in the circumstances, this Court directs that in case of their arrest or surrender within a period of four weeks from today, the petitioners above named be released on bail in connection with Chapra Town P.S. Case No. 162 of 2022 on furnishing bail bond



of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Chapra, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

9. 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 their 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.

10. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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