

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45642 of 2022

Arising Out of PS. Case No.-892 Year-2021 Thana- KUDHNI District- Muzaffarpur

1. SURENDRA PASWAN Sonof Ram Ashish Paswan Resident of Village - Sakri Saraiya, P.s.- Kudhani, Distt.- Muzaffarpur, Bihar.
2. SONU KUMAR Son of Surendra Paswan Resident of Village - Sakri Saraiya, P.s.- Kudhani, Distt.- Muzaffarpur, Bihar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prabhat Kumar Singh, Advocate
For the Opposite Party/s : Mr.Vinod Shanker Modi, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

3 06-02-2023 Heard the learned counsel for the petitioners and
the learned APP for the State.

The petitioners seek regular bail in connection with Kudhani (Turki O.P.) PS case no. 892 of 2021 instituted for the offences punishable under Sections 363, 302, 201/34 of the Indian Penal Code.

The case of the prosecution in brief, according to the informant, is that on 03.12.2021, the nephew of the informant Vinay Kumar was returning to his house after closing the shop but in the meantime, on the way, co-accused persons namely Vikash Kumar and Raja Babu are stated to have taken him for the purposes of drinking wine. It is further alleged that in the morning



of the next day, the dead body of the said Vinay Kumar was found in a sack and his hands, legs and mouth had been tied with adhesive tape. It has also been alleged that the reason behind the murder of the deceased was love affair between him and one Soni Kumari, who is the daughter of the petitioner no. 1 and sister of the petitioner no. 2.

The learned counsel for the petitioners submits that the petitioners are innocent, have been falsely implicated in the present case, are having clean antecedent and are languishing in custody since 08.12.2021. The learned counsel for the petitioner has further submitted that even in the FIR only Vikash Kumar and Raja Kumar i.e. the co-accused persons have been named to be the persons, who had taken away the nephew of the informant for the purposes of drinking wine, however, there is no material on record to suggest the complicity of the petitioners in the alleged crime. It is next submitted that though the daughter of the petitioner no. 1, in her statement made before the police, has stated that her family members had killed the deceased, however, the same has got no evidentiary value in the eyes of law and the said Soni Kumari has already been granted the privilege of bail vide order dated 18.01.2023, passed in Cr. Misc. no. 28671 of 2022. It is also submitted that there is delay in lodging of the FIR, inasmuch as the occurrence took place on 03.12.2021, whereas the FIR has been instituted



only on 06.12.2021. Lastly, it is submitted that similarly situated co-accused persons have already been granted bail by co-ordinate Benches of this Court vide order dated 18.01.2023, passed in Cr. Misc. no. 23621 of 2022 and vide order dated 25.01.2023, passed in Cr. Misc. no. 31533 of 2022.

Per contra, the learned APP for the State and the learned counsel for the informant have vehemently opposed the prayer for bail and it has been submitted that the co-accused person namely Soni Kumari has specifically stated that her family members had killed the deceased and moreover, the deceased has been killed in a brutal manner, thus, the petitioners should not be granted the privilege of bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record as also considering the fact that there is dearth of concrete evidence, to suggest the complicity of the petitioners in the alleged crime apart from the fact that similarly situated co-accused persons have already been granted bail by co-ordinate Benches of this Court, though I deem it fit and appropriate to release the petitioners on bail, however, only after framing of charges by the learned trial court, in view of the fact that the petitioners are the father and brother of the co-accused person namely Soni Kumari, who was having love affair with the deceased. Under the aforesaid facts and circumstances, let the



petitioners be enlarged on bail, immediately upon framing of charge, subject to such conditions, as may be deemed fit and appropriate to be imposed by the learned court A.C.J.M. 1st, Muzaffarpur in connection with Kudhani (Turki O.P.) PS case no. 892 of 2021.

The present petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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