

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46015 of 2022

Arising Out of PS. Case No.-133 Year-2021 Thana- MIRGANJ District- Purnia

1. Bipin Mahto @ Bipin Kumar Son of Bhagwan Lal Mahto R/o village - Sanjha Ghat, Ward No.- 10, P.S.- Mirganj, District - Purnea
2. Santosh Kumar Mahto @ Amarjeet Kumar Son of Bhagwan Lal Mahto R/o village - Sanjha Ghat, Ward No.- 10, P.S.- Mirganj, District - Purnea
3. Bijay Mahto Son of Bhagwan Lal Mahto R/o village - Sanjha Ghat, Ward No.- 10, P.S.- Mirganj, District - Purnea

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Adv. Dr. Bidhu Ranjan, Adv. Mr. Kumar Rajdeep, Adv.
For the Opposite Party/s :		Dr. Ajeet Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 13-02-2023 Heard Mr. N.K. Agrawal, learned counsel

 appearing on behalf of the petitioners duly assisted by Dr.

 Bidhu Ranjan, learned counsel and Dr. Ajeet Kumar, learned

 Additional Public Prosecutor for the State.

The petitioners seeks regular bail, who are in custody in connection with Mirganj P.S. Case No. 133 of 2021 registered for the offences punishable under Sections 147, 341, 323, 302 and 504 of the Indian Penal Code.

It has been alleged that all the accused persons including the petitioners on account of old dispute entered into the house of the informant and assaulted his wife by means of



fists and slap. It has further been alleged that Sanjay Kumar Mahto @ Golu forcibly administered poison to her wife, due to which, she became unconscious. Having received information, the informant rushed to his house and took away his wife to the hospital, where doctor declared her brought dead.

Learned senior counsel appearing on behalf of the petitioners submitted that allegedly occurrence took place on 12.11.2021 at about 03:00 P.M., however, the FIR has been registered at 16:30 hours on 13.11.2021 and, surprisingly, before institution of the FIR, the inquest report has been prepared and the informant being signatory to the inquest report neither submitted any written report nor his *fardbeyan* was recorded. He further submits that the informant is not an eyewitness to the alleged occurrence and a general and omnibus allegation has been levelled against all the accused persons except co-accused Sanjay Kumar Mahto @ Golu. He further drawn the attention of this Court towards the postmortem report which clearly falsifies the prosecution case, whereas the case of death has been shown to be cardiac arrest due to asphyxia caused by palmar strangulation. He next submits that the petitioners are in custody since 22.05.2022 having fair antecedent and now the investigation is complete.



On the other hand, learned counsel for the State vehemently opposes the bail application and submits that the materials have come during investigation, suggesting the complicity of the petitioners in the present crime.

Regard being had to the submissions made on behalf of the parties and considering the fact that the informant is not an eyewitness to the alleged occurrence as also the postmortem report belies the prosecution case, apart from delay in the FIR coupled with period of custody and fair antecedent, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned J.M. 1st, Class, Purnea in connection with Mirganj P.S. Case No. 133 of 2021, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

- (i) The petitioners will cooperate in conclusion of the trial.
- (ii) They will remain present on each and every date of trial till disposal of the case.
- (iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.



(iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(Harish Kumar, J)

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