

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46863 of 2022

Arising Out of PS. Case No.-69 Year-2022 Thana- SIKTI District- Araria

1. SHAH FAHIM @ SAH FAHIMUDDIN @ FAHIM S/o Mehruddin Resident of Village- Salgori, P.S.- Sikty, District- Araria.
2. Md. Zahid @ Mojahid @ Mojahir S/o Mehruddin Resident of Village- Salgori, P.S.- Sikty, District- Araria.
3. Subhan Alam @ Subhan S/o Late Naeem Resident of Village- Salgori, P.S.- Sikty, District- Araria.
4. Shah Mokhtar Alam @ Sah Mukhtar Alam @ Mokhtar S/o Shah Bacchu Resident of Village- Salgori, P.S.- Sikty, District- Araria.
5. Shah Ismail @ Ismail S/o Mokhtar Resident of Village- Salgori, P.S.- Sikty, District- Araria.
6. Manzoor @ Sah Manzoor S/o Naseer Shah @ Basir Resident of Village- Salgori, P.S.- Sikty, District- Araria.
7. Shah Nizam @ Nizam S/o Biltu Shah @ Sagir Resident of Village- Salgori, P.S.- Sikty, District- Araria.
8. Yashin S/o Bhola Resident of Village- Salgori, P.S.- Sikty, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Prasad Singh, Advocate.
For the Opposite Party/s : Mr.Md. Nazir Ansari, APP.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

6 09-05-2023 Heard Mr. Anil Prasad Singh, learned counsel

 appearing on behalf of the petitioners and Mr. Md. Nazir Ansari,

 learned APP for the State.

2. The petitioners seek pre-arrest bail in connection

with Sikty P.S. Case No. 69 of 2022 registered for the offence

punishable under Sections 147, 149, 323, 379, 363, 365, 504

and 506 of the Indian Penal Code.



3. The allegation against the petitioners is of commission of murder of the daughter of the informant.

4. Learned counsel appearing on behalf of the petitioners submitted that the petitioners are named in the F.I.R. Learned counsel informs this Court that he has brought on record the statement of the victim namely Shayada Khatoon recorded under Section 164 Cr.P.C. by way of Annexure-4, who has already been murdered. From the statement recorded under Section 164 Cr.P.C., it appears that the said victim has not made any allegation against the petitioner nos. 2 and 3. He further informs that the petitioner no.1 has been arrested and the bail application of petitioner no.1 has become infructuous.

5. Learned counsel for the opposite party no.2 submits that the victim is still missing and the statement which has been brought on record by way of Annexure-4 cannot be relied upon to have been made by the missing person namely Shyada Khatoon.

6. Considering the rival submissions of the parties, the petitioner nos. 2 and 3, above named, are directed to be released on pre-arrest bail in the event of their arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten



thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Araria in connection with Sikty P.S. Case No. 69 of 2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C. and further condition that the court below must verify the factum of murder / missing of Shyada Khatoon with respect to the present case pending before S.D.J.M., Araria and genuineness of the statement of the victim recorded under Section 164 Cr.P.C.

7. The court below must abide by the direction given so far as the factum of existence of the victim Shyada Khatoon is concerned while considering the grant of bail with respect to the petitioner nos. 2 and 3.

8. So far as prayer for grant of anticipatory bail to petitioner nos. 4 to 8 are concerned, the petitioner nos. 4 to 8, if so advised, may surrender before the court below and seek regular bail. In case the court finds that statement of the victim recorded under Section 164 Cr.P.C. is genuine and she has not named the petitioners in her statement, the regular bail application of the petitioner nos. 4 to 8 must be considered on the same day by passing an appropriate order without being prejudiced by any order of any Court and if the court below finds that the victim has been murdered or she is stilling



missing, the statement recorded under Section 164 Cr.P.C.
cannot be accepted in the court of law.

9. With above observation and direction, the bail
application stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

U		T	
---	--	---	--

