

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52595 of 2022

Arising Out of PS. Case No.-19 Year-2021 Thana- SAHEBGANJ District- Muzaffarpur

LAL MOHAN SINGH @ UPENDRA SINGH @ UPENDRA KUMAR
SINGH Son of chhotan Singh R/o Village- Paharpur Manorath, Karnaul
Nilkanth, P.S.- Sahebganj, District - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raju Kumar, Advocate

For the Opposite Party/s : Mr.Md. Mushtaque Alam,APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 13-01-2023 Heard learned counsel for the petitioner and the State
through video conferencing in view of the COVID 19.

The petitioner apprehends his arrest in connection
with Sahebganj P.S. Case No. 19 of 2021 for the offence
registered under Sections 302, 201, 376(D) and 34 of the Indian
Penal Code and Sections 4/6/8 of POCSO Act.

The allegation in the FIR is that the informant who
was working in Punjab came to know through his daughter that
his another daughter has been raped and killed by Gulshan
Kumar and Chanchal Kumar. The allegation is that his daughter
Tanu Kumari was threatened by the said accused persons as also
by Abhinay Kumar and Raja Kumar the other two accuseds. The
further allegation is that they not only committed rape, her body
was also set on fire. When Tanu Kumari, the other daughter



reached the house, she found the door locked inside the house and when she tried to open, she found Gulshan Kumar, Chanchal Kumar, Aman Kumar and Raja Kumar taking away the dead body. Beside them, it is alleged that some more villagers were with the body of the victim for cremation. Accordingly, the FIR was lodged.

From the perusal of the petition, it shows that the name of the petitioner came during the course of investigation that he was amongst the 10-12 persons who were helping the accused persons in taking away the body of the victim for cremation.

Taking into account the aforesaid facts where the girl was raped and subsequently the body was set on fire and further the same was being taken for cremation and further the name of the petitioner had cropped up during the course of investigation as having participated in the cremation of the dead body, this Court had initially rejected the claim for grant of anticipatory bail.

However, the petitioner who had earlier not appeared on call either in the forenoon or afternoon later brought attention of this Court to certain orders passed by the co-ordinate Bench and submitted that those whom the police had found during the



course of investigation as persons having participated in cremation of the dead body have been granted anticipatory bail.

The copies of aforesaid orders are kept on record.

Having gone through the orders dated 25.11.2022 in Jugali Singh @ Ajay Singh (Cr. Misc. No. 31083 of 2022) and Rakesh Kumar @ Rakesh Kumar Singh @ Rakesh Singh (Cr. Misc. No. 33047 of 2022) by the co-ordinate Bench, this Court is forced to change its mind and take similar view.

Let the petitioner, in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-VIIth-cum- Special Court, POCSO Act (West) Muzaffarpur in connection with Sahebganj P.S. Case No. 19 of 2021 subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Rajiv Roy, J)

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