

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58814 of 2023

Arising Out of PS. Case No.-37 Year-2021 Thana- ASHOK PAPER MILL District-
Darbhanga

-
1. Rohit Sahni son of Ram Bachni Sahni @ Ram Bachchan Sahni @ Ramvachan Sahni, village- Hariharpur, PS- Ashok Paper Mill, Dist-Darbhangha.
 2. Dilip Sahni son of Ram Bachni Sahni @ Ram Bachchan Sahni @ Ramvachan Sahni, village- Hariharpur, PS- Ashok Paper Mill, Dist-Darbhangha.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nilendu Kumar Choudhary, Advocate
For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 13-12-2023 Heard Mr. Nilendu Kumar Choudhary, learned counsel appearing on behalf of the petitioners and Mr. Satyendra Narayan Singh, the learned Additional Public Prosecutor for the State.

2. The petitioners apprehend their arrest in connection with Ashok Paper Mill PS Case No. 37 of 2021 dated 22.02.2021, registered for the offences punishable under Sections 328 and 302 read with Section 34 of the Indian Penal Code.

3. The prosecution case is based on the written report of the informant alleging therein that on 17.02.2021 all the

accused persons including the petitioners took his brother for idol immersion and when he returned back, his brother complained that accused persons including the petitioners have administered some substance in his wine due to which he was feeling uneasiness and during treatment his brother died in DMCH.

4. Learned counsel appearing on behalf of the petitioners submit that from the narratives of the FIR, it appears that the only allegation against the petitioners are that they accompanied the brother of the informant for idol immersion and during the course of investigation it has come that the deceased was in unconscious position and as such the disclosure of the name of the petitioners and others that they have administered some poisonous substance appears to be highly doubtful. He further drew the attention of this Court to the statement of the independent witnesses, whose statements have been recorded in paragraph no. 53, 55, 56 and 57, where all the independent witnesses have not supported the prosecution case and categorically stated that the name of the petitioners have been implicated on account of prior enmity and on suspicion. He next submitted that during the course of investigation, the 'viscera' of the deceased was sent to the FSL and the report

suggests that the cause of death is consumption of 'endosulfan', which is commonly used in agriculture for killing pests and is poisonous. He lastly submits that the petitioner no. 1 has no criminal antecedent, whereas the petitioner no. 2 has two criminal antecedents, however, he is on bail in both the cases.

5. On the other hand, learned counsel appearing on behalf of the State opposed the pre-arrest bail application and submits that the deceased was taken away by the petitioners and others and before his death he disclosed to his brother that it is the petitioners and other accused persons who have administered poisonous substance in the liquor.

6. Regard being had to the submissions made on behalf of the parties and considering the nature of allegation and the statements of the independent witnesses, who have suggested that the petitioners have been falsely implicated in this case, let the petitioners above named be released on bail, in the event of their arrest or surrender before the Court below within a period of four weeks from the date of receipt / production of a copy of this order, upon furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-V, Darbhanga in connection with **Ashok**

Paper Mill PS Case No. 37 of 2021, subject to the conditions laid down in Section 438(2) of Cr.P.C. with the further condition that one of the bailors shall be the own / close family members of the petitioners.

(Harish Kumar, J)

Shahnawaz/-

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