

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.64873 of 2023

Arising Out of PS. Case No.-20 Year-2023 Thana- PUWAKHALI District- Kishanganj

1. Ibrahim Son Of Ghergheru Resident Of Dagghibhitta, P.S Powakhali, Dist- Kishanganj
2. Md. Kausar @ Kausar @ Kausar Alam Son Of Ibrahim Resident Of Dagghibhitta, P.S Powakhali, Dist- Kishanganj

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dilip Kumar Singh, Adv.
For the State : Mr. Amitesh Kumar, APP
For the Informant : Mr. Jishnu Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 19-10-2023 Heard Mr. Dilip Kumar Singh, learned counsel appearing on behalf of the petitioners and learned Additional Public Prosecutor for the State. The informant is represented by Mr. Jishnu Kumar.

2. The petitioners apprehend their arrest in connection with Powakhali P.S. Case No. 20 of 2023, registered for the offences punishable under Sections 304(B), 302, 120(B) of the Indian Penal Code.

3. The marriage of the daughter of the informant was solemnised with co-accused Md. Nazir about a year ago as per the Muslim customs. It is alleged that on account of non-fulfillment of dowry, she was beaten to death with iron rod by her husband and other in-laws. It is further alleged that when the informant reached to the matrimonial house of his daughter, he found that his daughter was lying dead and there are marks of beating on her chest, back and limbs.



4. It is submitted on behalf of the petitioners that the petitioners are not family members of the deceased, rather they are villagers and save and except the omnibus allegation that they are the main conspirators of the crime, there is no other material. He further submits that considering the materials available on record, the police after investigation submitted final form showing the petitioners as innocent, however, differing with the final form the learned court has taken cognizance for the offences alleged against all the FIR named accused persons, including the petitioners, thus, the necessity of the present application. It is next submitted that during the course of investigation, no external mark of injury has been found over the body of the deceased, rather the cause of death has been shown to be asphyxia due to hanging and as such the post mortem report also does not corroborate the prosecution case. He lastly submits that the petitioners are men of fair antecedent and so far the husband of the deceased is concerned, against whom there is specific allegation, he is behind the bars.

5. On the other hand, learned counsel for the informant vehemently opposes the prayer for pre-arrest bail of the petitioners and while drawing the attention of this Court to the FIR submits that the petitioners have actively participated in



causing death of the deceased who died just within a year.

6. Learned counsel for the State also opposed the prayer for bail.

7. Regard being had to the submissions made on behalf of the parties and considering the fact that the police has submitted final form showing the petitioners as innocent, coupled with the post mortem report and the fair antecedent of the petitioners, let the petitioners abovenamed 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 Judicial Magistrate, 1st Class, Kishanganj in connection with Powakhali P.S. Case No. 20 of 2023, subject to the conditions laid down in Section 438(2) 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)

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