

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24515 of 2024

Arising Out of PS. Case No.-466 Year-2023 Thana- SIWAN MUFFASIL District- Siwan

1. Subhash Kumar Prasad @ Subash Prasad Son of Late Laxmi Prasad Resident of Village- Sarave Tola Mathiya, P.S. Siwan Muffasil, Distt.- Siwan
2. Vivek Kumar @ Vivek Kumar Prasad Son of Ramadhar Prasad Resident of Village- Sarave Tola Mathiya, P.S. Siwan Muffasil, Distt.- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Kumari Anupam, Advocate

For the Opposite Party/s : Ms. Dr. Indihar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

3 31-07-2024 Learned counsel for the petitioners seeks permission to withdraw the anticipatory bail petition with respect to Petitioner No. 2, Vivek Kumar @ Vivek Kumar Prasad, as he has already surrendered before the learned Court below.

2. Permission is accorded.

3. Accordingly, the anticipatory bail petition with respect to Petitioner No. 2 is dismissed as withdrawn.

4. Heard learned counsel for Petitioner No. 1 and learned A.P.P. for the State.

5. Petitioner No. 1 apprehends his arrest in connection with Siwan Muffasil P.S. Case No. 466 of 2023, instituted under Sections 302, 307, 341, 323/34 of the Indian Penal Code.



6. As per the prosecution case, on 26.07.2023 when the sister of the informant was coming after discharging her duty, on the way, she saw the stolen motorcycle of petitioner no. 2 was being carried by two unknown persons. She asked about the motorcycle then they fled away leaving the motorcycle. When sister of the informant came with the motorcycle, petitioners started assaulting her making allegation of theft, who died during course of treatment.

7. Learned counsel for Petitioner No. 1 submits that Petitioner No. 1 has falsely been implicated in this case due to ulterior motives. The alleged offence was occurred on 26.07.2023 and the deceased died on 04.08.2023 but the F.I.R. has been lodged on 24.08.2023 without any plausible explanation which creates doubt on the prosecution case. There is no eye-witness to the occurrence. As per the prosecution case, victim was treated 9 days in different hospitals but neither the hospital authorities nor the attendant of the deceased informed the local police. No injury report has been found by the I.O. It is further submitted that the informant when came to know the real fact of the occurrence, she filed a petition before the learned Court below that due to misconception she has given the name of the petitioners in this case. Petitioner No. 1 has no criminal



antecedent. He undertakes to co-operate in the investigation.

8. Learned A.P.P. for the State opposes the prayer for anticipatory bail.

9. Considering the facts and circumstances of the case and submission of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, Petitioner No. 1 be released on bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned concerned Court where the case is pending in connection with Siwan Muffasil P.S. Case No. 466 of 2023, subject to the conditions laid down in Section 438 (2) of the Code of Criminal Procedure, 1973.

(Sunil Dutta Mishra, J)

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