

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33723 of 2024

Arising Out of PS. Case No.-176 Year-2023 Thana- GAMAHARIYA District- Madhepura

Bipin Kumar Son of Bhubneshwar Yadav @ Bhuwaneshwari Yadav, R/o
Village- Datua, Ward No. 7, PS- Jadiya, Dist- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 42187 of 2024

Arising Out of PS. Case No.-176 Year-2023 Thana- GAMAHARIYA District- Madhepura

Vikash Sharma @ Bikash Sharma @ Vikash Kumar S/o Dilip Sharma @
Dilip Khatwe R/o Village-Toka, Aurahi Ward No 08, P.S. Gamharia, Distt-
Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 33723 of 2024)

For the Petitioner/s : Mr. Ashok Kumar Jha, Adv.

For the Opposite Party/s : Mr. Anil Kumar Singh No. 1, APP

For the Informant : Mr. Manoj Kumar, Adv.

(In CRIMINAL MISCELLANEOUS No. 42187 of 2024)

For the Petitioner/s : Mr. Pawan Kumar, Adv.

For the Opposite Party/s : Mr. Madan Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 31-07-2024 Heard learned counsel for the petitioners, learned

Additional Public Prosecutors for the State and learned counsel

for the informant.

2. The petitioners seek regular bail, who are in

custody in connection with Gamahariya P.S. Case No. 176 of



2023 registered for the offence punishable under Section 302 read with 34 of the Indian Penal Code.

3. Based upon the written report, the prosecution alleges that on 20.09.2023 in the night at 02:30 AM, while the brother of the informant went to attend the call of nature, he found dead body the informant's son hanging on the roof. When the brother of the informant raised hulla, local people rushed there and the body of the informant's son was sent for postmortem. It is further alleged that in the fateful night, several incoming and outgoing calls were found on the mobile of the deceased. In the morning, the informant got a phone call from mobile no. 7292859428; the caller was a girl who told the informant that she asked the deceased not to go but he did not obey her. Suspicion has been raised against all the FIR named accused persons that they have killed the son of the informant.

4. Learned Advocates for the petitioners, adverting to the FIR contended that the occurrence took place on 20.09.2023 but the FIR has been instituted on 23.09.2023 without there being any explanation. It is further contended that soon after the death of the victim, the inquest report was prepared and the postmortem of the dead body was conducted, but neither at the point of time any *fardbeyan* of the informant or any family



member has been recorded nor any complaint has been made. It is next contended that the postmortem report clearly suggests that there is no mark of injury over the dead body of the deceased and the cause of death is said to be asphyxia due to ligature strangulation and, as such, it is a case of suicide which has given the colour of murder. There is no eyewitness to the alleged occurrence and the story as narrated in the FIR appears to be unusual that the deceased was done to death at somewhere and thereafter his body was brought inside the house of the deceased and hanged on the roof. The petitioners have been made accused only on the basis of call details and suspicion, however, barring this, there is no other incriminating material suggesting complicity of the petitioners in the present crime. The petitioners bear fair antecedent and now they are in custody since 06.11.2023.

5. On the other hand, learned counsel for the State and learned counsel for the informant vehemently opposed the bail applications and submitted that the reason for delay in lodging the FIR as the father of the petitioners was not present and the moment he came to know about the incidence, this FIR has been instituted. It is also contended that during the course of investigation, the girl with whom the deceased was in talking



term had disclosed that on the fateful day, the deceased himself called her and narrated the incidence that he was caught hold by all the accused persons and they have assaulted him. It is lastly contended that it is a case of gruesome murder at the hands of the petitioners.

6. Regard being had to the submissions made on behalf of the parties and considering the delay in lodging of the FIR as well as the postmortem report, which suggests no external injury and also do not corroborate the prosecution case that he was assaulted at the hands of the accused persons, moreover the petitioners bear fair antecedent and the investigation of the crime is complete and the charge-sheet has been submitted, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Madhepura in connection with Gamahariya P.S. Case No. 176 of 2023, subject to the condition that one of the bailors will be the close relatives of the petitioners with further conditions which are as follows:-

(i) The petitioners will cooperate in conclusion of the trial.

(ii) They will remain present on each and every



date of trial till disposal of the case.

(iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioners and, in case, at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioners. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

rohit/-

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

