

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36471 of 2024

Arising Out of PS. Case No.-375 Year-2023 Thana- BARAUNI District- Begusarai

1. Md. Raja @Md. Raja Khan Son of Md. Nasir Khan @Nasir Ahmad R/O village-Deona, P.S.- Barauni(Refinary O.P.), District- Begusarai
2. Md. Safi Alam @Md. Chand Son of Md. Rajjak R/O village-Deona, P.S.- Barauni(Refinary O.P.), District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anuj Kumar

For the Opposite Party/s : Mr. Shailendra Kumar Singh

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

CAV ORDER

5 03-09-2024

I have already heard the parties.

2. This is an application for regular bail on behalf of the petitioners for the offences alleged under Sections 302 and 34 of the Indian Penal Code, registered in connection with Barauni P.S. Case No. 375 of 2023.

3. The brief facts of this case is that the Chaukidar got an information that a dead-body is lying near a *Bhaul Chaur*. He went there and saw a crowd. He also saw a dead-body of a person, aged about 40 years. The persons assembled there could not identify the dead-body. The FIR was lodged against unknown person.

4. The learned counsel for the petitioners submitted



that the petitioners are innocent and have falsely been implicated. There is no evidence in this case attributing the petitioners' involvement. It has been argued that Hasmat @ Tunna and the petitioners were running *Kabari* shops. Hasmat @ Tunna and Barun Singh @ Kanhaiya (co-accused persons) have falsely implicated these petitioners due to business rivalry. He has also submitted that co-accused Barun Kumar @ Kanhaiya, Md. Sarfraz @ Md. Sarafraz and Md. Hasmat @ Tunna have been granted bail by the coordinate Benches of this Court. It has next been argued that the name of the petitioners have figures in the confessional statement of co-accused Barun Kumar @ Kanhaiya Singh. It is further submitted that the confessional statement of Barun Kumar Singh is is not leading to recovery, as such, it is not admissible in evidence.

5. On the other hand, the learned APP for the State has opposed the prayer for bail.

6. In para-68 of the case diary, the confessional statement of Barun Kumar Singh @ Kanhaiya Singh has been recorded. He has given a vivid description of the occurrence. It has been specifically mentioned in the confessional statement that these two petitioners committed the murder of the deceased.

7. From perusal of para-26 and 27 of the case diary, it



appears that the locations of mobiles of the petitioners were found near the place of occurrence in the night of the occurrence. In the whole night, they talked to co-accused Barun Kumar Singh which transpires that these two petitioners were present near the place of occurrence in the whole night and they had conversation with the co-accused Barun Kumar Singh. The evidence collected in course of investigation *prima facie* indicates the involvement of the petitioners.

8. Considering the above facts and circumstances of the case and direct and specific allegation against the petitioners, who are responsible for murder of the deceased, they do not deserve the privilege of bail, which is hereby rejected.

(Nawneet Kumar Pandey, J)

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