

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76276 of 2023**

Arising Out of PS. Case No.-116 Year-2023 Thana- GHORASAHAN District- East
Champaran

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SUBODH YADAV S/O CHHATHU RAI R/O VILLAGE- AGARWA, P.S-
JITNA, DIST.- EAST CHAMPARAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 76284 of 2023

Arising Out of PS. Case No.-116 Year-2023 Thana- GHORASAHAN District- East
Champaran

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NIBHA DEVI WIFE OF SUBODH YADAV RESIDENT OF VILLAGE -
AGARWA, POLICE STATION - JITNA, DISTRICT - EAST CHAMPARAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :
(In CRIMINAL MISCELLANEOUS No. 76276 of 2023)
For the Petitioner/s : Mr.Sunil Kumar No.III, Advocate
For the Opposite Party/s : Mr.Syed Ehteshamuddin, APP
(In CRIMINAL MISCELLANEOUS No. 76284 of 2023)
For the Petitioner/s : Mr.Sunil Kumar No.III, Advocate
For the Opposite Party/s : Mr.Syed Ehteshamuddin, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 19-03-2024 Heard the parties.

2. The petitioners are apprehending arrest in
connection with A.B.P. No. 2707 of 2023 arising out of
Ghorasahan P.S. Case No. 116 of 2023 instituted under
Sections 302, 201, 120(B) of the Indian Penal Code lodged on
6.3.2023 by the informant, Lal Bahadur Prasad.



3. As per the prosecution story, the informant alleged that his son went out to see the agriculture field but failed to return. After some time, the villagers informed that an unknown accused person has killed him and the body is hanging from the mango orchard. The mobile of the deceased was present at the place of incident from which it was found that he was regularly in conversation with the mobile nos. xxxxx52952 and xxxxx28826. Accordingly, the FIR.

4. Subsequently, during the investigation, the name of the petitioners cropped up in the confessional statement of one Tuntun Kumar who was apprehended in connection with Ghorasahan P.S. Case No. 68 of 2023 in which he confessed that as the deceased was in relationship with the petitioner, Nibha Devi (wife of petitioner, Subodh Yadav), the alleged incident took place.

5. Learned counsel for the petitioners submit that save and except the last seen, all of them being friends, there is nothing on record to show that any one in the village has seen the actual killing and/or handing the dead body from the tree. The further submission is that even the post-mortem report shows that death occurred due to asphyxia as such it can be concluded that due to certain problem/depression and/or any



other reason, the deceased put an end to his life on his own for which not only the petitioner, Subodh Yadav but also his wife has been dragged in, both of them do not have criminal antecedents.

6. Learned counsel for the informant on the other hand submits that this petitioner Subodh Yadav was last seen along with two other accused persons whereafter the dead body was found hanging from the tree. He further submits that in the confessional statement of Tuntun Kumar, the names have cropped up. He as such opposes the prayer for anticipatory bail.

7. Mr. Jitendra Kumar Singh, learned APP submits that since his name has come in the confessional statement of Tuntun Kumar in Ghorasahan P.S. Case No. 68 of 2023, it would be appropriate that the criminal antecedent of the petitioner Subodh Yadav be checked as in column-3 of the petition, it has been incorporated that he do not have criminal antecedent.

8. Taking into account the submissions aforesaid as also the fact that death has occurred due to asphyxia, there is no eye-witness to the alleged occurrence, one of the petitioner, Nibha Devi is a lady, both do not have criminal antecedents, FIR lodged, they will have to face the music, this Court is inclined to



extend them the privilege of anticipatory bail. The anticipatory bail of the petitioner, Subodh Yadav is allowed subject to the enquiry by the concerned Court whether he has criminal antecedent or not. In case, he has criminal antecedent, so far as the grant of relief to Subodh Yadav is concerned, the same shall be ceased to have any effect.

9. Let the petitioners be released on bail, in the event of their arrest or surrender before the subordinate court within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each in connection with A.B.P. No. 2707 of 2023 arising out of Ghorasahan P.S. Case No. 116 of 2023 to the satisfaction of learned Sub-Divisional Judicial Magistrate, Sikrahana at Motihari subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also the other conditions.

(i) one of the bailor should be the family member of the petitioners who shall provide official document to show his/her bona fide;

(ii) the petitioners shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial Court itself;



(iii) the petitioners shall co-operate in the investigation and make themselves available to the police as and when required;

(iv) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioners shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of their bail bonds.

(Rajiv Roy, J)

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