

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79174 of 2023

Arising Out of PS. Case No.-180 Year-2023 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

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1. AWADH KISHORE SINGH SON OF LATE TRILOKI NATH SINGH (GRANDFATHER OF THE DECEASED) R/O MOHALLA- YADAV NAGAR, P.S.- SADAR BHAGWANPUR, DIST.- MUZAFFARPUR
 2. UMA SINHA WIFE OF AWADH KISHORE SINGH (GRANDMOTHER OF THE DECEASED) R/O MOHALLA- YADAV NAGAR, P.S.- SADAR BHAGWANPUR, DIST.- MUZAFFARPUR
 3. VIKASH KUMAR SON OF AWADH KISHORE SINGH (UNCLE OF THE DECEASED) R/O MOHALLA- YADAV NAGAR, P.S.- SADAR BHAGWANPUR, DIST.- MUZAFFARPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhavesh Kumar, Advocate

For the Opposite Party/s : Mr. Yogendra Kumar Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 28-02-2024 1. Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel for the opposite party no.2.
2. The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 328 and 302/34 of the Indian Penal Code.
3. Learned counsel for the petitioners submits that petitioners are grandfather, grandmother and own uncle of the deceased. It is further submitted that from bare perusal of the allegation as alleged in the FIR, it would manifest that the same does not inspire confidence. It is next submitted that mother of the deceased alleges that her child all of a sudden became ill and



thereafter he was brought to the Care Nursing Home, Bairya, Muzaffarpur by his family members where the Doctors declared him dead. It is also alleged that thereafter grandfather of the deceased talked to the Doctor in his chamber and thereafter told for cremating the deceased. It is further alleged that property dispute is going on in between the petitioners and her husband as such based on suspicion it is alleged that the petitioners might have killed the deceased. It is next alleged that the informant requested the Doctor for conducting postmortem but the Doctor refused thereafter an UD case was instituted and the viscera of the deceased was sent to the FSL.

4. Learned counsel submits that the viscera report found presence of Aluminium Phosphide which is commercially known as Celphos and is highly poisonous. It is further submitted that thereafter the informant in her statement recorded under Section 161 Cr.P.C. further alleged that her son had gone to the upper floor of the house where the petitioners live as such she apprehends that the petitioners were instrumental in killing the deceased for property dispute by poisoning.

5. Learned counsel submits that petitioners no. 1 and 2 are the grandfather and grandmother of the deceased and are at fag end of their lives. It is further submitted that even if there was dispute relating to property it was in between the petitioner no. 1



and the husband of the informant but then no useful purpose would have been served by killing the deceased. It is next submitted that it is difficult to fathom that grandfather and grandmother along with own uncle would poison their own grandson and nephew. It is also submitted that in the FIR, it is alleged that in the night of the date of occurrence the informant along with her husband had seen the petitioners calling the deceased on their floor and thus alleges that they might have poisoned the deceased. It is further submitted that if the relationship between the deceased and the petitioners were so strained that they could have killed the deceased in that event the deceased on their mere calling would not have gone upstairs nor the informant and her husband would have allowed the deceased to go upstairs. It is next submitted that it absolutely does not stand to reason that on what basis the informant alleges that it were the petitioners who had poisoned the deceased when she is not an eyewitness to the occurrence as such at best it can be a case based on suspicion. It is also submitted that petitioners will not abscond rather will cooperate in the investigation.

6. Learned A.P.P. for the State and learned counsel for the opposite party no. 2 opposed the prayer for anticipatory bail of the petitioners but are not in a position to rebut the submissions of the learned counsel for the petitioners that informant is not an eyewitness to the occurrence and the entire allegation hinges



around suspicion.

7. Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Muzaffarpur Sadar P.S. Case No. 180 of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

8. It is made clear that in the event if the investigating officer of the case files an application before the learned trial court bringing to its notice that petitioners despite giving assurance to this Court are not cooperating in the investigation in that event the learned trial court shall be at liberty to cancel the bail bonds of the petitioners after giving them an opportunity of hearing.

(Satyavrat Verma, J)

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