

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4471 of 2025

Arising Out of PS. Case No.-229 Year-2024 Thana- ITARHI District- Buxar

1. Bihari Musahar S/O Late Subedar Musahar R/O Village- Badhare, P.S- Dinara, Distt.- Rohtas (Sasaram).
2. Krishna Musahar S/O Bihari Musahar R/O Village- Badhare, P.S- Dinara, Distt.- Rohtas (Sasaram).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rang Nath Choubey, Adv.

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

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

3 24-04-2025 Heard learned counsel for the petitioners and learned APP for the State. Perused the case diary.

2. The petitioners seek bail in connection with Itarhi P.S. Case No. 229 of 2024 instituted for the offences under Sections 103, 3(5) of the B.N.S., 2023.

3. As per prosecution case, the accusation against the accused persons including the petitioners is of committing murder of the deceased Sunil Mushar and threw him in water.

4. Learned counsel for the petitioner submits that the petitioners is innocent and have committed no offence as alleged against them and have falsely been implicated in the present case. The present case is the counterblast to the Itarhi P.S. Case



No. 228 of 2024 filed by the petitioner no.1 against Sunil Musahar. The petitioner no.1 is the father of the deceased Pushpa Devi whereas petitioner no.2 is her brother who have filed a case against the Informant's son earlier and, thereafter, Rita Devi (mother of Sunil Musahar) filed the present case merely on the basis of suspicion. There is no eye-witness to the alleged occurrence. The Informant and her family members have killed the daughter of the petitioner no.1. After death of Pushpa Devi, the Informant has informed the petitioners on 13.10.2024 and, thereafter, the petitioner no.1 has filed a case being Itarhi P.S. Case No. 228 of 2024 on 13.10.2024. There is no direct or specific allegation of any overt act against the petitioners rather the same is general and omnibus in nature. The petitioners have no concern with the seized liquor. The petitioners have no criminal antecedent and are languishing in judicial custody since 16.10.2024 without any rhymes or reason.

5. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioners, stating that the offence alleged is serious in nature. He submits that the Informant in Para-3 and several witnesses in Para 4, 5 & 8 of the case diary have fully supported the prosecution case. The petitioner no. 1 Bihari Musahar in his



confessional statement contained in para-25 of the case diary has confessed that he along with his son Krishna, nephew Dhoda Mushar and co-villager Vinod Mushar murdered Sunil Mushar and threw him in water. From Para-13 of the case diary, it appears that both the petitioners have confessed their guilt of committing murder of the deceased. The opinion as with regard to cause of death has been given in the postmortem report as Asphyxia as a result of respiratory failure in the case of drowning in water. supports the prosecution case and, thus, the postmortem report supports the prosecution case. The petitioner is named in the F.I.R. and, hence, he does not deserve bail.

6. Having heard learned counsel for the parties and considering the entire facts and circumstances of the case as also nature and gravity of the offence, this Court is not inclined to grant bail to the petitioners.

7. Accordingly, the prayer for bail of the petitioners, above named, is rejected with a direction to the court below to expedite the trial and conclude the same expeditiously.

(Rudra Prakash Mishra, J)

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