

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75669 of 2024

Arising Out of PS. Case No.-26 Year-2024 Thana- BATHWARIA District- West Champaran

1. Habib Miyan Son of Rafique Miyan village- Kehuniya, Ps- Lauriya, Dist- West Champaran
2. Afshana Khatun Wife of Afjal Alam village- Olinagar, Ps- chautarwa, Dist- West champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Deepak Kumar Singh, Advocate

For the Opposite Party/s : Mrs. Dr. Indihar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

3 29-01-2025 Heard Learned Counsel for the petitioners and
Learned APP for the State.

2. The petitioners are apprehending arrest in connection with Bathwariya P.S. Case No. 26 of 2024, lodged on 27.05.2024, under Sections 302, 201 and 34 of the Indian Penal Code.

3. As per the prosecution, FIR has been lodged against six named accused persons including the present petitioners. The informant's daughter went missing from her house, and after some days, the dead body of a girl was recovered from the canal. Thereafter, the police took the dead body to the hospital for a post-mortem, where it was identified as the informant's daughter.



4. Learned Counsel for the petitioners submits that the petitioners are innocent and have committed no offence. Counsel further submits that from the contents of the FIR, only a circumstantial case has been lodged against the petitioners, solely on suspicion. Counsel further submits that the petitioner No. 1 has one criminal antecedent, whereas the petitioner No. 2 has clean antecedent. Counsel further submits that the case diary was called for, and upon examination, there is absolutely nothing against the petitioners except for a confession. Counsel further submits that a confession made before the police holds no evidentiary value. Furthermore, even in the confession, it has been stated by the co-accused by which it becomes clear that the petitioners had no role in the killing of the deceased. Counsel further submits that Annexure- 2 and 3 are the documents that clearly establish that a false and fabricated case was lodged against the petitioners.

5. Learned APP for the State opposes the prayer for bail of the petitioners and submits that the case diary has been received in this matter. In the case diary, paragraph 62 contains the confessional statement of the co-accused, Afjal Alam, in which he has narrated the entire *modus operandi* of the crime. The co-accused, Afjal Alam, who is the husband of the



petitioner No. 2 and the son-in-law of the petitioner No. 1, has categorically stated in his confessional statement that the act of killing was committed by him to satisfy the whims of the petitioners. Counsel further submits that, since a confessional statement made before the police holds no evidentiary value before the Court, therefore, it may not be accepted.

6. After perusal of the case diary, it transpires to this Court that the statement of the husband of petitioner No. 2 is not merely a confession but is also corroborated by other evidence. Corroboration exist because the case records disclose that, after killing the deceased, the body was thrown into a canal, and the same body was recovered from the same canal. Additionally, the injury report and post-mortem report are annexed in the case diary after page 140, along with the inquest report.

7. In light of the fact that the confession is supported by corroboration, this Court is not inclined to grant bail to the petitioners. Accordingly, the prayer for anticipatory bail of the petitioners is hereby rejected.

(Dr. Anshuman, J)

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