

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78181 of 2024

Arising Out of PS. Case No.-338 Year-2023 Thana- HAJIPUR SADAR District- Vaishali

1. Biju Kumar @ Bijay Rai Son of Late Julum Rai Resident of Village - Ward No.1, Shubhai Majirabad, Bishunpur, P.S. - Hajipur Sadar, District - Vaishali at Hajipur
2. Md. Akhtar Son of Md. Manar Resident of Village - Ward No.1, Shubhai Majirabad, Bishunpur, P.S. - Hajipur Sadar, District - Vaishali at Hajipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Navjot Yesu. Adv.
For the Opposite Party/s : Mr. Pushpa Sinha.1, APP.

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

3 19-04-2025 Heard learned counsel for the petitioners and learned APP
for the State.

2. The petitioners apprehend their arrest in a case registered for the offences punishable under Section 302/34 of the Indian Penal Code.

3. The prosecution case as disclosed in the FIR is that on 28.04.2023 at 07:30 AM, the son of the informant, namely, Shiv Kumar Rai had gone along with four persons including the present petitioners which was seen by the informant. When his son did not return till late night, the informant assumed that he might have stayed along with his friends. On the next day at about 03:30 AM, the informant found that the body of his son



was lying in his room upon which he raised alarm and the villagers came and saw the dead body, which was kept in the room of the informant.

4. Learned counsel for the petitioners submits that it would be clear from the bare perusal of the FIR that there is no eye-witness to the occurrence. The allegation against the petitioners is that the deceased was last seen in the company of the petitioners and others. It is further submitted that the FIR also clearly reveals that the dead body of the son of the informant was found in his own room on the very next day of the occurrence. However, the present FIR came to be lodged after 17 days on 15.05.2023 for which no explanation whatsoever, much less plausible, has been tendered by the informant.

5. Learned APP for the State opposes the prayer for anticipatory bail on the ground that the deceased was last seen in the company of the petitioners and the postmortem report would disclose that the cause of death is asphyxia due to strangulation with clothes.

6. No doubt, an unfortunate incident of death of the deceased has taken place which is the cause of concern and it is also a fact which would emerge from the FIR that he was last



seen in the company of the accused persons, but if the matter was such, there is no reason as to why the FIR would not have been lodged earlier and the allegation on the petitioners and others would have been levelled much earlier. There is absolutely no reason appearing as to why the FIR has been instituted after such a great delay.

7. Considering the facts above mentioned and also that the body of the deceased was recovered from his own house, I am inclined to grant the privilege of anticipatory bail to the petitioners, who got no earlier criminal antecedent. Let the petitioners, above named, in the event of their arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Vaishali at Hajipur in connection with Hajipur Sadar P.S. Case No. 338 of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C/ 482 (2) of the BNSS, 2023.

(Soni Shrivastava, J)

divyanshi/-

U		T	
---	--	---	--

