

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89999 of 2024

Arising Out of PS. Case No.-149 Year-2024 Thana- PATAHI District- East Champaran

1. Md. Baitullah @ Baitullah @ Vaitullah, S/o Late Avas, R/o Village- Lahasniya, P.S.- Patahi, District- East Champaran
2. Seraju Nesha @ Serazu Nesha, W/o Md. Baitullah @ Baitullah @ Vaitullah, R/o Village- Lahasniya, P.S.- Patahi, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Bharat Lal, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 21-01-2025 Heard learned Advocate appearing on behalf of the petitioner and the learned Additional Public Prosecutor for the State.

2. The petitioners apprehend their arrest in connection with Patahi P.S. Case No. 149 of 2024, registered for the offences punishable under Sections 285, 304, 201 and 34 of the Indian Penal Code.

3. Based upon the written report, the prosecution alleges that on 12.06.2024 at about 05:00A.M. the husband of the informant went to his field but did not return. Later on, when the informant went to the nearby field, this petitioner forbade her to enter in his field. On the next day, when the informant



again reached over his field, she found that the electric wire through which the field was surrounded, was taken away and thus suspicion has been raised that the husband of the informant might have died on account of electrocution and his dead body is concealed.

4. Learned Advocate appearing on behalf of the petitioner contended that admittedly the alleged occurrence took place on 12.06.2024, but surprisingly the FIR has been instituted on 16.06.2024 without there being any explanation. Moreover, the deceased died on account of electrocution and later on, only on account of suspicion, the name of the petitioners have been implicated after recording the confession of their son, Md. Masir. Save and except the confessional statement, there is no material suggesting the complicity of the petitioner in the crime. It is further contended that taking note of the fact that there was no *mens rea* in causing the death of the deceased, this Court has allowed the privilege of regular bail to Md. Masir in Criminal Miscellaneous No. 60821 of 2024 vide order dated 26.10.2024. It is lastly contended that even if the allegation taken to be true, hardly it can be a case under Section 304A and Section 201 of the Indian Penal Code, which are bailable in nature.

5. On the other hand, learned Advocate for the State



opposed the pre-arrest bail application and submits that petitioner no. 1 is the person who had forbade the informant to enter in his field and later, on the confessional statement of his son, the dead body has been recovered from the graveyard. The complicity of the petitioner cannot be denied.

6. Regard being had to the submissions made on behalf of the parties and considering the materials available, this Court is not acceded to the prayer of anticipatory bail of petitioner no. 1, however taking note of the fact that the petitioner no. 2 is a lady and there is no specific allegation of any overt act, nor any materials suggesting her complicity, let the petitioner no. 2 above named be released on bail, in the event of her arrest or surrender before the Court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.5,000/- (five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Motihari, East Champaran in connection with Patahi P.S. Case No. 149 of 2024, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

7. Suffice it to observe that if the petitioner no. 1



surrenders before the Court below preferably within a period of six weeks from today, the learned Court below shall consider the prayer for bail of the petitioner without being prejudiced by the order of this Court, taking note of the age of the petitioner no. 1 and the fact that the co-accused Md. Masir has already been allowed regular bail.

(Harish Kumar, J)

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