

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 34640 of 2020**

Arising Out of PS Case No.-176 Year-2020 Thana- RAXAUL District- East Champaran

1. Mira Devi @ Meera Devi Wife of Om Prakash Sah @ Om Prakash Prasad Resident of Village - Kanana, P.S.- Raxaul, District - East Champaran, Motihari
 2. Om Prakash Sah @ Om Prakash Prasad Son of Shivnath Sah Resident of Village - Kanana, P.S.- Raxaul, District - East Champaran, Motihari
- Petitioner/s
- Versus
- The State of Bihar
- Opposite Party/s
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Appearance :

For the Petitioner/s : Mr. Md. Anis Akhtar with
Mr. Kundan Rathore, Advocates
For the State : Mr. Amitesh Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 25-05-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Md. Anis Akhtar, learned counsel along with Mr. Kundan Rathore, learned counsel for the petitioners and Mr. Amitesh Kumar, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioners apprehend arrest in connection with Raxaul PS Case No. 176 of 2020 dated 22.05.2020, instituted under Sections 304-B/34 of the Indian Penal Code.

4. The allegation against the petitioners, who are the mother-in-law and father-in-law respectively, of the deceased, is of killing her.



5. Learned counsel for the petitioners submitted that they have no role in any wrong doing and even the death was due to natural causes. It was submitted that during investigation, the police have found that the deceased was suffering from mental illness and many other issues which would indicate that the petitioners have been falsely implicated in the case and that even the post-mortem report was collusive. Learned counsel submitted that they have filed supplementary affidavit to show that the deceased was not in a fit mental condition for which she was treated at various places. It was further submitted that on the complaint made by the petitioners' side, the doctor, who had conducted post-mortem, was relieved from performing post-mortem and transferred somewhere else. Learned counsel submitted that in the year 2008 itself, the petitioners had got a separate ration card, which would be clear from the fact that in the ration card of the petitioners, the name of the husband of the deceased, who is the son of the petitioners, is not present, which indicates that he was not living with the petitioners. It was further submitted that the petitioners' side has represented both to the Civil Surgeon as well as the District Magistrate against the conduct of the doctor, who had conducted the post-mortem, and enquiry was conducted. It was submitted that the petitioners have



been falsely implicated. Learned counsel submitted that the petitioners have no role, and even if there was some foul play as they were separate from the deceased and her husband, they cannot be held responsible in any way whatever happened.

6. Learned counsel further submitted that from the inquest report as well as the post-mortem report, it would be clear that there is only strangulation mark found on the neck and no other ante-mortem injury on the body of the deceased, which clearly indicates that there was no complicity of any other person, for the reason, that if a person is forcibly strangled/hanged, there would be some resistance at least and for that there would be ante-mortem marks on the body disclosing that, but both at the inquest time as well as during post-mortem, the doctor has not found any such mark on the body. It was submitted that coupled with the fact that the petitioners are the parents of the husband, who was also there, death having occurred clearly indicates that the petitioners have no role in the same and most importantly, the husband of the deceased i.e., the son of the petitioner is in judicial custody, being arrested on the same day.

7. Learned APP, from the case diary, submitted that the allegation against the doctor *prima facie* appears to be incorrect as far as finding of death due to strangulation has been recorded for



the reason that even in the inquest report, which was prepared and signed by different persons, not connected to the doctor, there is clear finding that the death had occurred due to strangulation. However, he did not controvert the fact that the inquest report and the post-mortem report does not disclose any other ante-mortem injury on the body except for the ligature mark on the neck.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned SDJM, Raxaul, Motihari (East Champaran) in Raxaul PS Case No. 176 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioners and (ii) that the petitioners shall co-operate with the police/prosecution and the Court. Failure to co-operate shall lead to cancellation of their bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court concerned, which shall take immediate



action on the same after giving opportunity of hearing to the petitioners.

10. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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