

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 34666 of 2020**

Arising Out of PS Case No.-73 Year-2020 Thana- Kochadhaman District- Kishanganj

1. Hakimudin, Male, aged about 32 years, Son of Aiyub.
2. Quaimuddin, Male, aged about 42 years, Son of Aiyub.
3. Abbas, Male, aged about 45 years, Son of Dil Mohammad.
4. Khaliq, Male, aged about 40 years, Son of Dil Mohammad.
5. Chasmuddin @ Kasmuddin, Male, aged about 38 years, Son of Late Niyamat Ali.

All resident of Village-Bodi Baitta, PS-Thakurganj, District-Kishanganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Radha Mohan Singh, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the Informant	:	Mr. Ram Prawesh Kumar, Advocate

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

Date : 22-06-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Radha Mohan Singh, learned counsel for the petitioners; Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Ram Prawesh Kumar, learned counsel for the informant.



3. The petitioners apprehend arrest in connection with Thakurganj PS Case No. 73 of 2020 dated 15.06.2020, instituted under Sections 302, 201/34 of the Indian Penal Code.

4. On 03.05.2021, the application on behalf of petitioners no. 2 and 3, namely, Quaimuddin and Abbas respectively was disposed off as withdrawn and stands restricted to petitioners no. 1, 4 and 5, namely, Hakimuddin, Khalique and Chasmuddin @ Kasmuddin.

5. The allegation against the petitioners no. 1, 4 and 5 is of killing the son of the informant.

6. Learned counsel for the petitioners submitted that only on suspicion, they have been made accused as it is alleged that they were seen running away from the place of occurrence. It was submitted that there is no witness to the crime, more so, about the involvement of the petitioners. It was submitted that the false implication is due to past land dispute between the parties in connection with which ten days prior to the incident, scuffle had taken place between them and both the sides had lodged case against each other. It was submitted that during investigation, witnesses have stated that the deceased was of dull mind and had also earlier tried to commit suicide and, thus, it can well be a case of suicide. In support of such contention, it was submitted that the



postmortem report also does not disclose any injury on the body of the deceased. It was further contended that independent witnesses have clearly stated that the deceased was of dull mind and that he had taken the extreme step because of the informant not taking him along when he had gone out of the village, due to which the deceased had committed suicide. Further, it was contended that even the informant himself has only raised suspicion that because there was past dispute between the parties, the petitioners may have killed his son, without there being any material in support thereof.

7. Learned APP, from the case diary, submitted that the informant has raised the suspicion about the involvement of the petitioners in the death of his son. However, it was not controverted that independent witnesses have stated that the deceased was of dull mind and that he had taken the extreme step because of not being taken along by the informant. It was also not controverted that the postmortem report does not disclose any external injury on the body except for ligature mark on the neck which indicates hanging and death due to asphyxia.

8. Learned counsel for the informant submitted that there was past dispute between the parties and the informant had seen the petitioners running away from the place where the son of



the informant was found hanging. However, he also could not controvert the statement of the independent witnesses and the finding in the postmortem report.

9. 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, petitioner no. 1 namely, Hakimudin; petitioner no. 4 namely, Khalique and petitioner no. 5 namely, Chasmuddin @ Kasmuddin, 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 Chief Judicial Magistrate, Kishanganj in Thakurganj PS Case No. 73 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 said petitioners and (ii) that the said petitioners shall co-operate with the police/prosecution and the Court. Failure to co-operate shall lead to cancellation of their bail bonds.

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



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

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

(Ahsanuddin Amanullah, J.)

P. Kumar

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