

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37359 of 2014

Arising Out of PS.Case No. -47 Year- 2006 Thana -BARAHIYA District- LAKHISARAI

- =====
1. Biran Mahto
 2. Vishwanath Mahto, both sons of late Teni Mahto.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vidya Sagar

For the Opposite Party/s : Mr. J.N. Thakur (App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

6 08-04-2015 Supplementary affidavit is filed on behalf of the
petitioners.

Heard learned counsel for the petitioners as well as
learned Additional Public Prosecutor for the State.

Petitioners are named in the first information report
with specific allegation that they fired upon the informant but the
firing of the petitioners hit the informant's six years old daughter
who died in course of her treatment.

The contention on behalf of the petitioners is that the
informant is a convicted person and as a matter of fact, he himself
shot his daughter dead and lodged this false case against the
petitioners with an intent to take aveng from the petitioners. It is



further contended by him that police after due investigation, submitted charge sheet against the informant of the case on the basis of statements of witnesses as well as post mortem report of the deceased whereas petitioners were exonerated from the case but learned court below took cognizance not only against the informant but petitioners also.

Learned counsel for the petitioners submits that it is well settled principle of law that if the two versions come in respect of an occurrence, the version favourable to the accused shall go into evidence and, therefore, in the aforesaid circumstance, petitioners are entitled to get the privilege of anticipatory bail.

I am not, at all, convinced with the submission of learned counsel for the petitioners because the learned court below has taken cognizance against the petitioners as well as informant of the case on the basis of materials available on the case diary and there is two versions in respect of death of the deceased and in course of trial, it can be decided as to which of the versions is correct.

Accordingly, the prayer for anticipatory bail of the petitioners in connection with Barahiya (Birupur) P.S. Case No. 47 of 2006 pending in the court of Chief Judicial Magistrate,

Lakhisarai stands rejected.

However, this order shall not cause any prejudice to the concerned court at the time of consideration of regular bail application of the petitioners.

(Hemant Kumar Srivastava, J)

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