

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38307 of 2016

Arising Out of PS.Case No. -38 Year- 2013 Thana -HULASGANJ District- JEHANABAD

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1. Uday Sharma, son of Late Yugeshwar Sharma
2. Pankaj Sharma, son of Uday Sharma
3. Bhuletan Sharma @ Ghuletan Sharma, Son of Uday Sharma
All are residents of Village- Kokarsa, P.S.- Hulasganj, District-
Jehanabad.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Lakshmi Kant Sharma

For the Opposite Party/s : Mr. Sri Dinesh Singh

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 17-09-2016 Heard Sri Ramakant Sharma, learned Senior

Counsel, who was assisted by Sri Rajesh Kumar, learned counsel
for the petitioners, Sri Dinesh Singh, learned Addl. Public
Prosecutor as well as Sri Pramod Kumar, learned counsel, who has
voluntarily appeared on behalf of the informant.

Three petitioners, who were not named as accused
in the F.I.R., have approached this Court apprehending their arrest
in Hulasganj P.S. Case No.38/2013 registered for the offence
under Section 302/34 of the Indian Penal Code.

It was submitted by learned counsel for the
petitioners that the wife of the informant was murdered and on the
basis of information given by his daughter, three persons were



arrayed as accused in the F.I.R., who are not the petitioners. However, during investigation, it appears that the police suspected that it was case of honour killing and on the basis of some material, the petitioners were made accused and investigation was carried against them also. Finally, during investigation no sufficient material was collected by the Investigating Officer to forward the petitioner as accused and , as such, final report so far as petitioners are concerned was submitted by the Investigating Officer vide Chargesheet no.04/2015 dated 31.01.2015. Learned counsel for the petitioners, by way of referring to page-19 i.e. part of the chargesheet , submits that the Investigating Officer has categorically exonerated all the three petitioners, whereas F.I.R. named accused were forwarded as accused in the chargesheet. Subsequently, the learned Magistrate differing with the police report has taken cognizance of offence and summoned the petitioners. Learned counsel for the petitioners submits that once the Investigating Officer did not find sufficient material against the petitioners and petitioners were exonerated, at least it is a fit case for extending the privilege of anticipatory bail.

Learned Addl. Public Prosecutor and learned counsel for the informant have vehemently opposed the prayer for anticipatory bail of the petitioners on the plea that it is a case of

murder and petitioners may not be extended the privilege of anticipatory bail.

Keeping in view the fact that the petitioners were not named in the F.I.R., no material was collected during investigation and finally only on the ground that the learned Magistrate differing with the police report has directed the petitioners for appearance, the petitioners may not be denied the privilege of anticipatory bail. Accordingly, let the aforesaid three petitioners, namely, (i) Uday Sharma (ii) Pankaj Sharma and (iii) Bhuletan Sharma @ Ghuletan Sharma, in the event of their arrest or surrender within six weeks from today, 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 Sri Sandeep Patel, learned Judicial Magistrate, 1st Class, Jehanabad/concerned Magistrate in connection with Hulasganj P.S. Case No.38/2013, subject to conditions as laid down in Section 438(2) of the Code of Criminal Procedure.

(Rakesh Kumar, J)

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