

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.6136 of 2016

Arising Out of PS.Case No. -48 Year- 2012 Thana -BEGUSARAI GRP CASE District-
BEGUSARAI

- =====
1. Bipin Mishra.
 2. Arvind Mishra.
Both Sons of Ramakant Mishra.
 3. Keshavnand Mishra @ Keshav Kumar
 4. Kishore Nand Mishra @ Kishor Kumar
Both sons of Arvind Mishra.
All residents of Village- Daniyalpur Gaura-3, P.S. Teghra District-
Begusarai.
 5. Vijay Kumar Mishra, Son of Baikuntha Mishra, resident of Village-
Ramdiri, P.S. Muffasil, all of District- Begusarai.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Kaushal Kumar Singh
For the Opposite Party/s : Mr. J.N. Thakur (App)

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 11-02-2016 Heard learned counsels for the petitioners,
State and the informant.

The petitioners are apprehending their
arrest in a case initially registered for the offences punishable

under Sections 302/34 of the Indian Penal Code, but subsequently charge-sheet has been submitted under Section 306 of the Indian Penal Code.

The prosecution case is that the FIR named accused persons including the petitioners assaulted the son of the informant namely Sanjeev Kumar Mishra @ Putul Babu and threw him before running train when he succumbed to the injuries. On conclusion of the investigation the final form (Charge-sheet) was submitted under Section 306 of the IPC and petitioners were not sent up for trial. Final form was accepted. The petitioners have been summoned in exercise of jurisdiction under Section 319 of the Cr.P.C.

It is submitted by learned counsel for the petitioners that the petitioners were named in the FIR but during investigation it came that the victim committed suicide as a result charge-sheet was submitted under Section 306 of the IPC and petitioners were not sent up for trial. Final form was accepted. Initially application on behalf of the prosecution was filed for summoning the petitioners after examined of three witnesses under Section 319 of the Cr.P.C. which was rejected by the learned trial court on 14.05.2015. Thereafter, after the examination of the informant again a petition was filed for

summoning the petitioners and the same was allowed on 23.11.2015. Though, petitioner nos. 2, 3 and 4 are accused in one other case but the same was lodged at the behest of the informant, who is the agnate of the petitioners.

The learned Sessions Judge has not deliberated the evidence which persuaded the learned trial court to summon the petitioners in exercise of jurisdiction under Section 319 Cr.P.C.

It is submitted by learned counsel for the informant that the petitioners are named in the FIR with specific accusation and on the basis of the evidence adduced during trial of the co-accused the petitioners have been summoned in the present case.

Considering the fact that the petitioners were not sent up for trial and they have been summoned in exercise of jurisdiction under Section 319 Cr.P.C. coupled with the submission of the learned counsel for the petitioners that the petitioners regularly appear before the learned trial court, let the above named petitioners be released on anticipatory bail, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like

amount each to the satisfaction of learned Sessions Judge,
Begusarai in connection with Sessions Trial No. 387 of 2013
arising out of Barauni Rail P.S. Case No. 48 of 2012, subject to
the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

DKS/-

U		T	
---	--	---	--