

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36084 of 2017

Arising Out of PS.Case No. -2007 Year- 2016 Thana -BHOJPUR COMPLAINT CASE District-
BHOJPUR

- =====
1. Basant Singh s/o Jodha Singh
 2. Akhilesh Singh s/o kamakhya Singh
 3. Prince Singh s/o Kamakhya Singh.

All are resident of village- Anar, P.S. Bihiya, District- Bhojpur.

.... Petitioner/s

Versus

- 1.State of Bihar
- 2.Deepak Kumar Singh s/o late Sudama Singh, resident of village- Anar,
P.S. Bihiya, District- Bhojpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kr.Thakur,Sr. Adv.

Mr. Pravin Kumar

For the State : Mr. Sri Anuj Kumar Srivastava

For the Informant : Mr. Sunil Pathak.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 10-08-2017 Heard learned counsel for the petitioners and the State.

The petitioners are apprehending their arrest in a case
registered under Sections 302/34 of the Indian Penal Code.

The father of the complainant gave fardbeyan
alleging therein that he had taken loan from Kamakhya Singh, the
father of the petitioner nos. 2 and 3 in the past though the money
was refunded but Kamakhya Singh was still charging interest on
that money and for that reason Kamakhya Singh and others
including the petitioners intercepted the informant in the market
area and burnt him by pouring K.Oil. During course of treatment
the fardbeyan was recorded by the police and the informant put



his LTI on 22.11.2015 and later on he died. After investigation the police did not sent up the petitioners for trial. However, on protest petition cognizance has been taken treating the same as Complaint Case No. 2007 c of 2016. In the complaint petition the petitioners have prayed for anticipatory bail on the ground that there is no witness of the occurrence of commission of murder by burning the informant. The dying declaration of the informant is very weak evidence in this case as the same is not signed by any doctor giving certificate that the informant was mentally fit to give statement or taken before the Magistrate, so the sanctity of recording the statement is doubtful.

Learned counsel for the informant opposes the prayer of anticipatory bail on the ground that the statement of the informant was recorded in the video by the family members and thereafter the same was copied into a C.D. C.D. reveals the audio of the deceased as well as accused persons abusing the deceased. Learned counsel for the informant further opposed the prayer for bail on the ground that the petitioners are involved in money lending, which would be evident from the news published in newspaper and are involved in cheating the public at large.

Learned counsel for the petitioners has doubted the sanctity and manner of recording and copying of the C.D. and



submits that the same cannot be considered in evidence as per Evidence Act.

Considering the nature of allegation as well as the materials discussed above, in my view, the petitioners deserve anticipatory bail.

Let the above named petitioners, in the event of their arrest/surrender in the court below within thirty days from the date of receipt of a copy of the order 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 learned Additional Chief Judicial Magistrate-V, Bhojpur, Ara in Complaint Case No. 2007 c/2016,subject to the conditions as laid down u/s 438(2) Cr.P.C. as well as condition that the petitioners shall fully cooperate with the investigation/ trial of the case, failing which the court below shall be at liberty to cancel the bail bonds of the petitioners.

(Birendra Kumar, J)

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