

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11295 of 2019**

Arising Out of PS. Case No.-263 Year-2018 Thana- MADANPUR District- Aurangabad

1. KAMAL KHAN @ KAMAL UDDIN S/o Moinuddin Resident of Ward no. 10, Mohalla-Urdu Bazar, Sherghati, P.S-Sherghati, District- Gaya
2. Md. Tazim Khan S/o Md. Muslim Khan resident of village-Braini Millat, Nagar, P.S-Bodh Gaya, District- Gaya.

... .. Petitioners.

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhirendra Kumar
For the Opposite Party/s : Mr.Ram Anurag Singh

**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

3 17-05-2019 Heard.

The petitioners apprehend their arrest in connection with Madanpur P.S. Case No. 263 of 2018 registered under Sections 304/34 of the Indian Penal Code, pending in the court of learned Chief Judicial Magistrate, Aurangabad.

The accusation is that on 19.10.2018 at about 09.00 A.M., Kanhaiya Kumar, the son of the informant Jitendra Singh, along his maternal uncle Mritunjay Singh, proceeded from his house for going to the house of his aunt. At about 10.00 A.M., Naresh Kumar Singh, the representative of the Panchayat Samiti, gave information to the informant that Kanhaiya Kumar died in an accident at Highway, in front of Madanpur Market.



Thereafter, the informant along with his family members and villagers reached at Madanpur and saw his son Kanhaiya Kumar lying dead. On query, Mritunjay Singh, the maternal uncle of his son Kanhaiya Kumar, disclosed that when bus bearing registration No.UP67T9202 was stopped at Ghatrine More, then he along with Kanhaiya Kumar boarded on the bus. Thereafter, the conductor of the bus started demanding Rs.200/- as fare. When they asked that it is not the fare for the distance of Sherghati, then Jamshed Khan, who was sitting in front of the seat of the bus, imposing himself to be the owner of the bus calling the name of Kamal Khan (petitioner no.1), the conductor of the bus, ordered to dash them from the bus. Thereafter, the Kamal Khan (petitioner no.1) and Jamshed Khan dashed Kanhaiya Kumar from the bus and driver moved the bus at him.

Learned counsel appearing on behalf of the petitioners submits that, admittedly, the petitioner no.1 is Conductor and the petitioner no.2 is the driver of the bus in question. It would appear from the F.I.R. that the information was given to the police on 19.10.2018 at 10.15 A.M. but the formal F.I.R. was drawn up on 20.10.2018 at 08.30 A.M., which clearly indicates the false implication of the petitioners. It has further been submitted that while at the time of the occurrence, Mritunjay



Singh, the maternal uncle of Kanhaiya Kumar, was with him but the present case was lodged by the father of Kanhaiya Kumar. Further submission is that, in fact, when Kanhaiya Kumar and his maternal uncle Mritunjay Singh got down from the bus and came on the road, Kanhaiya Kumar came in the touch of another bus and died in an accident but the informant gave a different version in the F.I.R.

Having considered the facts and the circumstances of the case and the nature of allegation, I am not inclined to grant anticipatory bail to the petitioners. Accordingly, the prayer of the petitioners for grant of anticipatory bail stands rejected. However, the petitioners are directed to surrender before the trial court and pray for regular bail, which shall be considered by the trial court in accordance with law without being prejudiced by the order of this Court.

(Rajendra Kumar Mishra, J)

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