

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45416 of 2019

Arising Out of PS. Case No.-59 Year-2016 Thana- BIHRA District- Saharsa

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1. Amna Devi @ Amanna Devi, W/o Anil Mukhya Resident of Village-Sihaul Tola-Chakla, P.S-Bihra, District-Saharsa.
 2. Raj Kumar Mukhiya Son of Late Kusheshwar Mukhiya Resident of Village-Sihaul Tola-Chakla, P.S-Bihra, District-Saharsa.
 3. Shiv Kumar Mukhiya Son of Ram Kishun Mukhiya Resident of Village-Sihaul Tola-Chakla, P.S-Bihra, District-Saharsa.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bhaskar Shankar, Advocate

For the informant : Ms. Rashmi Jha, Advocate

For the Opposite Party/s : Mr. Harendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

3 01-10-2019 Heard learned counsel for the petitioners, learned counsel appearing for the informant and the learned A.P.P. for the State.

The petitioners apprehend their arrest in connection with Bihra P.S. Case no. 59 of 2016, registered under Sections 307, 341, 342, 324, 326, 504/34 and 302 of the Indian Penal Code.

The accusation is that on 28.04.2016, informant Purnima Devi, her husband Mahendra Kunwar, her other family members and relatives were engaged in preparation of marriage of her son Sanjay Kunwan and all of a sudden at



about 3.15 P.M., a message received about murder of Anil Mukhiya at Dukha Chowk, who was friend of her husband, due to that reason, her husband moved for there boarding on motorcycle, where Raj Kumar Mukhiya (Petitioner No.2), Shiv Kumar Mukhiya (Petitioner No.3) Nunu lal Mukhiya and 60 to 80 unknown persons were surrounded the dead body of Anil Mukhiya. On seeing the Mahendra Kunwar, husband of informant, Amna Devi (Petitioner No.1), wife of deceased Anil Mukhiya raised alarm that this fellow got her husband Anil Mukhiya murdered. Thereafter, Raj Kumar Mukhiya (Petitioner No. 2), Shiv Kumar Mukhiya (Petitioner No.3) and Nunu Lal Mukhiya started to caused assault through fist and slaps to her husband Mahendra Kunwar. The member of the mob handed over the chain of cycle and bled then Raj Kumar Mukhiya (Petitioner No. 2), Shiv Kumar Mukhiya (Petitioner No.3) caused injury through knife and bled and thereafter, carried her husband Mahendra Kunwar along with Raghav Kunwar in a room and spread salt and chilly powder on their injuries. On giving information to higher Police officials, the Police reached there at about 08 P.M. then her husband Mahendra Kunwar and Raghav Kunwar were rushed to Sadar Hospital, Saharsa and due to serious condition, they were



rushed for treatment at Surya Hospital, Saharsa.

Learned counsel for the petitioners submits that, in fact, Anil Mukhiya, husband of petitioner No.1 and brother of petitioner No.2 Raj Kumar Mukhiya was killed by Mahendra Kunwar, husband of informant and others, regarding which Bihra P.S. Case No. 57 of 2016 was instituted under Sections 302, 120(B) of I.P.C. and Section 27 of the Arms Act against 16 persons named in the F.I.R. including Mahendra Kunwar, husband of the informant, but with ulterior motive, the informant Purnima Devi lodged the present case on her hearsay story as she was not present there, which appears from the F.I.R. itself. Moreover, there is no allegation against petitioner No.1 Amna Devi @ Amanna Devi, whose husband Anil Mukhiya was murdered, and only it is alleged that she raised alarm at the P.O that Mahendra Kunwar (deceased) husband of informant has hand in the murder of her husband.

Having regard to the facts and circumstances of the case, let the petitioner No.1 Amna Devi @ Amanna Devi, be released on bail, in the event of her arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the



Judicial Magistrate, 1st Class, Saharsa in connection with Bihra
P.S. Case No. 59 of 2016, subject to the condition as laid down
under Section 438 (2) of the Cr.P.C.

So far as prayer for pre-arrest bail of the petitioner
Nos. 2 Raj Kumar Mukhiya and petitioner No. 3 Shiv Kumar
Mukhiya are concerned, considering the facts and
circumstances of the case and the nature of allegation, I am not
inclined to grant anticipatory bail to the petitioner Nos. 2 and 3.
Accordingly, their prayer for grant of anticipatory bail stands
rejected.

(Rajendra Kumar Mishra, J)

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