

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9143 of 2020

Arising Out of PS. Case No.-401 Year-2018 Thana- BUXAR COMPLAINT CASE District-
Buxar

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1. SATYENDRA KR. PANDEY @ BIRENDRA KR. PANDEY S/o Suresh Pandey Resident of Village- Bedouli, P.S.- Brahmpur (Chakki O.P.), Distt- Buxar
 2. Manjit Kr. Pandey S/o - Satyanarayan Pandey Resident of Village- Bedouli, P.S.- Brahmpur (Chakki O.P.), Distt- Buxar
 3. Pankaj Kr. Tiwari @ Sujeet Kumar S/o Dhananjay Tiwari Resident of Village- Kosihari, P.S.- Sahar, Distt- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rajesh Kumar Pandey S/o Hareram Pandey Resident of Bedauli ,P.S. Brahmpur(Chakki), District- Buxar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Patanjali Rishi
For the Opposite Party/s : Mr.Raj Ballabh Singh, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 07-07-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard Sri Patanjali Rishi, the learned counsel for the petitioners, Sri Bachan Jee Ojha, the learned counsel appearing for the informant and Sri Raj Ballabh Singh, the learned APP appearing for the



State.

This is an application for grant of anticipatory bail in connection with Complaint Case No. 401(C) of 2018 arising out of Brahmpur P.S. Case No. 207 of 2017 registered for the offence punishable under Sections 302 and 34 of the Indian Penal Code.

The case of the prosecution in brief is that the informant was sleeping along with his wife, mother, daughter and son on the roof of the house in the night of 25-26.6.2017 and at about 12:00 o'clock in the night, the accused persons including the petitioners had arrived on the roof of the house of the informant through the house of the neighbor, namely, Ramnand Pandey and after putting a cloth on the mouth of the wife of the informant, had taken the wife of the informant to the courtyard of the house through the stairs where they had sprinkled kerosene oil over her body and lit her saree on fire. It is further alleged that upon alarm being raised by the wife of the informant, the neighbors had arrived there,



whereafter the accused persons had fled away and the wife of the informant was taken to the hospital.

The learned counsel for the petitioners has submitted that the petitioners are innocent, they have been falsely implicated in the present case and they are having a clean antecedent. It is further submitted that the police, upon investigation, had filed a final form dated 23.9.2017, finding the case lodged by the informant to be false, however, thereafter, the informant had filed a protest petition, which was registered as Complaint Case No. 401(C) of 2018, under Section 302/34 of the Indian Penal Code, in the court of learned CJM, Buxar and upon examination of the complainant and other enquiry witnesses, the learned court below found a prima facie case to be made out under Section 302/34 of the Indian Penal Code inasmuch as the wife of the informant is stated to have died during the course of treatment. It is submitted that the police, upon investigation, has found the case to be not true, hence benefit of doubt should be extended to the



petitioners and they should be granted the privilege of anticipatory bail. It is further submitted that a bare perusal of the order dated 29.6.2019, by which summons have been issued to the petitioners herein by the learned C.J.M., Buxar in Complaint Case No. 401 (C) of 2018, would show that the same is an unreasoned order and does not depict any application of independent mind to the records of the complaint case, hence, the order, taking cognizance, dated 29.6.2019 is itself perverse and illegal. Lastly, it is submitted that the police had examined independent witnesses during the course of the investigation and has found that the wife of the informant had committed suicide. It is also submitted that the informant had filed two protest petitions, firstly, on 13.7.2017 and then on 30.08.2017 and only then, the learned court below has taken cognizance of the offences alleged, only on 29.6.2019.

Per contra, the learned counsel for the informant and the learned APP for the State have vehemently opposed the prayer for bail.



Having regard to the facts and circumstances of the case and considering the fact that initially the police, upon investigation, has found the case lodged by the informant to be false and moreover, on going through the materials available in the case diary, prima facie the incident in question appears to be a case of suicide, I deem it fit and proper to grant the benefit of doubt to the petitioners herein, hence I direct that the petitioners be admitted to the privilege of anticipatory bail.

Accordingly, the petitioners are directed to be enlarged on anticipatory bail, in the event of their arrest or surrender before the court below within a period of eight weeks from the date of receipt/production of a copy of this order, on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Buxar in connection with Complaint Case No. 401(C) of 2018 arising out of Brahmpur P.S.Case No. 207 of 2017, subject to the



conditions as laid down under Section 438(2) of the
Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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