

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.6182 of 2020**

Arising Out of PS. Case No.-258 Year-2019 Thana- BIHARIGANJ District- Madhepura

1. MD. SAMSUL Son of Late Md. Kailu Resident of Village - Babhangama, Tola- Tulsia, P.S.- Bihariganj, District - Madhepura.
2. Md. Sammi Son of Md. Samsul Resident of Village - Babhangama, Tola- Tulsia, P.S.- Bihariganj, District - Madhepura.
3. Md. Samsher Son of Md. Samsul Resident of Village - Babhangama, Tola- Tulsia, P.S.- Bihariganj, District - Madhepura.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Dinesh Prasad Verma, Advocate

For the Opposite Party/s : Mr.Akhileshwar Dayal, APP Incharge

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 08-07-2020 Heard learned counsel for the petitioners and learned
APP for the State.

Petitioners, in the present case, are seeking anticipatory bail in connection with Bihariganj P.S. Case No. 258/2019 registered for the offences under Section 366(A)/34 of the Indian Penal Code.

Learned counsel for the petitioners submits that from the First Information Report it would appear that the daughter of the informant was adult aged about 21 years and she had left her house on 09.06.2019 with two briefcase, ornaments and cash. The informant though claimed that he tried to find out the whereabouts of his daughter but he did not inform the alleged



occurrence to the police station.

It is alleged that on 01.07.2019 a call from unknown person came on the mobile of the son of the informant who told him that he was calling from Delhi and the daughter of the informant has died, thereafter attempts made to connect the said mobile number did not succeed. In the First Information Report lodged on 03.08.2019 i.e. one month after the information allegedly received by the informant about the death of his daughter, he has alleged that his neighbours are the conspirators and co-accused Azhar Khan @ Umar Khan was running medicine shop in the name of Khans Clinic where anti-social elements are coming and he is involved in the sale of intoxicating drug and on his clinic these petitioners and co-accused Md. Zuber were regularly coming there and they have concealed the victim girl and murdered.

Learned counsel for the petitioners submits that in course of investigation it has come that the victim girl had gone with the co-accused Md. Zuber but no material has come in course of investigation to connect these petitioners in the present case, the allegation of conspiracy is even otherwise difficult to prove and in the present case nothing has come to suggest that these petitioners had helped the co-accused Md.



Zuber, it is rather his own case of the informant that his daughter had left her house with briefcase, ornaments and cash.

Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioners, however considering the facts and circumstances of the case, the materials available on the record from which nothing appears to suggest that these petitioners had involved themselves in concealing the daughter of the informant, moreover the fact that the daughter of the informant was adult and herself left the house and it has come that she had married with Md. Zuber and even on receipt of information that she had died the F.I.R. was not lodged immediately, there was no information about the missing of the daughter and only at a belated stage the present F.I.R. has been lodged, keeping in view the judgment of the Hon'ble Supreme Court in the case of **Bhadresh Bipinbhai Sheth Vs. State of Gujarat & Anr.** reported in **2016(1) SCC 152** that plenitude of Section 438 Cr.P.C. must be given it's full play and for getting benefit of anticipatory bail it is not required to be shown to be a special case, this court is inclined to grant privilege of anticipatory bail to the petitioners, let the petitioners above-named in the event of their arrest or surrender within a period of four weeks from today in connection with Bihariganj P.S. Case



No. 258/2019 be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned J.M. 1st Class, Udakishunganj, District - Madhepura, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

