

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.5803 of 2020**

Arising Out of PS. Case No.-98 Year-2019 Thana- MAHISHI District- Saharsa

1. LALAN YADAV Son of Late Sukhadev Yadav Resident of Village- Mangrouni, P.S.- Mahishi, Dist- Saharsa.
2. Rakesh Yadav Son of Late Basudev Yadav @ Basdeo Yadav Resident of Village- Mangrouni, P.S.- Mahishi, Dist- Saharsa.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Diwakar Prasad Singh, Advocate

For the Opposite Party/s : Mr.Satyavrat Verma,APP

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

3 19-06-2020 Heard learned counsel for the petitioners and Mr. Satyavrat Verma, learned APP for the State.

The petitioners in the present case are seeking anticipatory bail in connection with Mahishi P.S. Case No. 98 of 2019 registered for the offences punishable under Sections 341, 342, 302, 120(b) of the Indian Penal Code & Section 27 of Arms Act.

Learned counsel for the petitioners submits that it is a case of false implication because of the prior enmity. He has demonstrated from the first information report and the post mortem report that while the first information report says that co-accused Ajay Yadav had fired on the chest of the brother of the informant and these two petitioners had fired on the back of



the deceased, the post mortem report does not support the prosecution version that any firearm injury was caused on the back of the deceased. Post mortem report shows only one injury on the chest.

Learned counsel for the petitioners has further placed before this Court paragraph '3' of the application in which it is stated that on earlier occasion also the informant side had implicated these petitioners in Mahishi P.S. Case No. 194 of 2017 and Mahishi P.S. Case No. 268 of 2017 but in both the cases after investigation police has submitted final form holding the petitioners innocent and occurrence false. It is submitted that a third case has been registered by the informant being Mahishi P.S. Case No. 14 of 2018 registered for the offences under Sections 341, 323, 504 and 506 of IPC.

Learned counsel, Mr. Diwakar Prasad Singh, has submitted that he has instruction to say that in the said case the petitioners are on bail. The crux of the submission of learned counsel is that repeated attempts are being made by the informant side to falsely implicate these petitioners and this time also the allegations that the petitioners had fired on the back of the deceased has not been corroborated by the post mortem report.



Learned APP for the State has though opposed the prayer for anticipatory bail of the petitioners, however it is not denied that the post mortem report which is annexed as Annexure '4' to the present petition shows only one injury on the chest.

Having regard to the facts and circumstances of the case wherein, the post mortem report does not support the allegations that these petitioners had fired on the back of the deceased and further on earlier occasions also the petitioners were made accused in two cases by the informant side in which the police has found them innocent and the occurrence false, 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 Mahishi P.S. Case No. 98 of 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 Sub-Divisional Judicial Magistrate at Saharsa, 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.

This application stands allowed.

(Rajeev Ranjan Prasad, J)

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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'.

