

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13211 of 2020**

Arising Out of PS. Case No.-113 Year-2019 Thana- SIWAN MUFFASIL District- Siwan

1. IMRAN ALI Son of Late Akhtar Hussain Resident of Village - Orma, P.S.- Siwan Mufassil, District - Siwan.
2. Rehana Khatoon Wife of Late Akhtar Hussain Resident of Village - Orma, P.S.- Siwan Mufassil, District - Siwan.
3. Danish Khan Son of Rayesh Azam Khan Resident of Village - Barahani Bazar, P.S.- Siwan Mufassil, District - Siwan.
4. Firoz Ali Son of Md. Shahabuddin Resident of Village - Surapur, P.S.- Hussainganj, District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Javed Aslam

For the Opposite Party/s : Mr.Atul Chandra

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 22-01-2021 Heard learned counsel for the parties.

This application for anticipatory bail arises out of Siwan Muffasil Police Station Case N0. 113 of 2019, disclosing offences under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

It has been stated by the learned counsel for the petitioners that during the pendency of this application, petitioner no.1 above-named has been arrested.

This application, accordingly, stands dismissed as having become infructuous in respect of petitioner No.1.



Petitioners are not named in the First Information Report and it transpires that on the disclosure made by these petitioners name of one Munna Khan figured in the FIR. Charge-sheet was submitted against Munna Khan. The statement of petitioner Nos. 1,3 and 4 were recorded before the Magistrate under Section 164 of the Code of Criminal Procedure as witnesses to the occurrence. Said Munna Khan has been charge-sheeted and put on trial. During the course of trial, on the basis of deposition of informant's wife, namely, Mehrun Nisha and another witness, namely, Arzoo Praveen, these petitioners have been summoned under Section 319 of the Code of Criminal Procedure by the trial Court. This is the circumstance in which the petitioners apprehend their arrest, if they appear before the Court in response to the summonses issued to them.

Learned counsel appearing on behalf of the petitioners have submitted that there is absolutely no material collected during the course of investigation, which can suggest involvement of these petitioners in commission of the offence. The petitioners have been summoned on the basis of the depositions of the witnesses to the effect that the petitioners had invited Munna Khan for dinner at their place. He has submitted



that the petitioners shall present themselves before the Court as and when required and shall never default in their appearance before the Court below.

Considering the above submission and the fact that the petitioners have been summoned under Sections 319 of the Code of Criminal Procedure on the basis of deposition of the wife of the informant, a case for grant of anticipatory bail is made out.

I have kept in mind the fact that there appears to be no direct material collected during the course of investigation, indicating involvement of these petitioners in commission of the offence.

This application is, accordingly allowed.

Let the petitioner Nos. 2,3 and 4 above named in the event of their arrest/surrender within six weeks from today in the Court below, be released on bail on furnishing bail bond of Rs. 10,000/-(ten thousand)each with two sureties of the like amount each to the satisfaction of the learned F.T.C.-I, Siwan in Siwan Muffasil P.S. Case No. 113 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner Nos.



2,3 and 4 shall present themselves before the Police/Court, as the case may be, as and when required and in the event of failure on their part to appear before the Court on two consecutive occasions, their bail bonds shall be liable to be cancelled.

(Chakradhari Sharan Singh, J)

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