

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32351 of 2020

Arising Out of PS. Case No.-119 Year-2017 Thana- ARA NAGAR District- Bhojpur

1. Brij Kishore Keshari, Son of Late Brahmdeo Keshri Resident of Village Gausganj, Police Station-Ara Nawada, District-Bhojpur.
2. Anil Keshri @ Anil Kumar Keshri, Son of Brij Kishore Singh Resident of Village Gausganj, Police Station-Ara Nawada, District-Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prabhat Kumar Singh

For the Opposite Party/s : Mr.APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 08-02-2021 Heard Mr. Prabhat Kumar Singh, learned counsel for the petitioners and Mr. Ashok Kumar Singh, learned APP for the State.

The petitioners seek bail in anticipation of their arrest in connection with Sessions Trial No. 288 of 2017, arising out of Ara Town P. S. Case No. 119 of 2017, dated 12.03.2017, instituted for the offences under Sections 147, 148, 149, 447, 307, 302, 379 and 427 of the Indian Penal Code.

Though the petitioners were made accused in the F.I.R. but during investigation, their involvement in



the case could not be established and therefore they were not sent up for trial. They have been summoned to face trial along with other accused persons under Section 319 of the Code of Criminal Procedure. The order summoning the petitioners to face trial indicates that they have been named by two prosecution witnesses; one of whom is an injured eye-witness to the occurrence.

The learned counsel for the petitioners has submitted that the possibility of false accusation cannot be ruled out, in as much as the petitioners are owners of a sweet shop which is located exactly opposite to the sweet shop of the informant and the deceased.

According to the F.I.R., the accusation of assault and the resultant death was because of business rivalry as the informant and the deceased always sold sweets at a cheaper cost thereby goading the customers not to go to the shop of the petitioners but to the shop of the informant and the deceased.



In the investigation, the location of the petitioners at the time of the occurrence could not be confirmed and since there was no other material to connect them with the offence, they were not sent up for trial.

The learned counsel for the informant however has opposed the present application and has submitted that according to the F.I.R., petitioner no. 1 was the first to assault the deceased, whereafter others followed suit, leading to his death in hospital.

It has therefore been submitted that the petitioners do not deserve to be released on anticipatory bail as they have been summoned under Section 319 Cr.P.C. on the eye-witness account of P.W.-2 who is an injured witness.

After having heard the learned counsel for the parties, this Court is of the view that the accusation against the petitioners in the first instance was not found to be correct and therefore they were not sent up for



trial.

No doubt, one of the eye-witnesses of the occurrence who also received injuries in the transaction has named the petitioners, but there is always a possibility of false implication because of business rivalry.

Considering these aspects of the matter, the petitioners, above-named, are directed to be released on 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 their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned XI Additional District & Sessions Judge, Bhojpur at Ara, in connection with Sessions Trial No. 288 of 2017, arising out of Ara Town P. S. Case No. 119 of 2017, subject to the conditions as laid down under Section 438 (2) Cr.P.C.

The application stands allowed.



The petitioners, however, are cautioned that they shall participate in the trial and their absence from the trial proceedings on two consecutive occasions without seeking the permission of the trial court would render their bail liable to be cancelled.

(Ashutosh Kumar, J)

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