

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38526 of 2020

- =====
1. Dani Rai, aged about 56 years, Male, son of Amir Rai
 2. Rakesh Kumar, aged about 24 years, Male, son of Doni Rai
- Both are resident of village-Kamrapar, P.S. Athmalgola,
District-Patna

----- Petitioner

Versus

The State of Bihar

----- Opposite Parties

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Appearance:-

For the Petitioner:- Mr. Murari Narain Chaudhary, Advocate
For the State :- Mr. Bhanu Pratap Singh, A.P.P.

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CORAM:HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 2. 31.05.2021** 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 the learned counsel for the petitioners and
Shri. Bhanu Pratap Singh, learned A.P.P. for the State.

The petitioners apprehend their arrest in connection with Athmalgola P.S. Case No. 75 of 2019 for the offence registered under Sections 147, 148, 149, 307, 448 and 504 of the Indian Penal Code and Section 27 of the Arms Act. Subsequently Section 302 of the Indian Penal Code has been added to the set of allegations.

The case of the prosecution in brief, according to the informant, is that in the night of 02.05.2019, while the father of the informant was sleeping in the *bathan* (open space) of his house, the accused persons including the petitioners herein had arrived there, caught the father of the informant and fired upon his head from close range by pistol resulting in grievous injury being sustained by the father of the informant and his subsequent death.

The learned counsel for the petitioners has submitted that the petitioners are innocent and they have been falsely implicated in the present case. The learned counsel for the petitioners has further submitted that a general and

omnibus allegation has been leveled against the petitioners and there is no eye witness to the alleged occurrence.

Per contra, the learned A.P.P. for the State Shri. Bhanu Pratap Singh has vehemently opposed the prayer for bail and has referred to the impugned order wherein the learned court below has meticulously gone through the case diary and has vividly recorded the fact that the witnesses have supported the case of the prosecution in paragraph nos. 4, 5 and 8 of the case diary. The learned APP for the State has further submitted that the inquest report and postmortem report also suggest that several injuries have been found on the person of the deceased which are attributable to the accused persons including the petitioners herein. It is also stated that the learned court below has recorded its findings, after going through the case diary, to the effect that the case has been found true as against the petitioners and specific allegation of them having actively participated in the occurrence is also available.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioners and taking into account the materials available on record as also the impugned order dated 16.09.2020, this Court finds that the complicity of the petitioners in the alleged crime is writ large and moreover, the petitioners have prima facie been found to have engaged in a heinous crime of murder of the deceased, thus at least the present case is not a fit case for grant of anticipatory bail to the petitioners, hence, the present petition stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-