

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 39084 of 2020

Arising Out of PS. Case No.-180 Year-2020 Thana- UDAKISHUNGANJ District-
Madhepura

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1. Manjo Devi, aged about 50 years, Female Wife of Late Rajo Sharma.
 2. Sunil Sharma, aged about 30 years, Male Son of Late Rajo Sharma.
Both resident of Village- Rahata (Rahta) P.S.- Uda-Kishunganj, District-
Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Pawan Kumar, Advocate
For the Informant	:	Mr. Sanjay Kumar Singh, Advocate
For the State	:	Mr. Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

- 3 02-11-2021 Heard Mr. Pawan Kumar, learned counsel appearing
on behalf of the petitioners, Mr. Sanjay Kumar Singh, learned
counsel appearing on behalf of the informant and Mr. Ajit
Kumar, learned counsel appearing on behalf of the State.

The petitioners apprehend their arrest in connection
with Uda-Kishunganj P.S. Case No. 180 of 2020, dated
17.06.2020 registered for offence punishable under Sections
302/34 of the Indian Penal Code.

The prosecution case in brief is that on 17.06.2020
while she was out of her home at about 10:00 hours her
neighbour namely Shiv Kumar requested her to immediately
visit her home. When she came at her home, she found dead
body of her son surrounded by the villagers. The body was



hanged in the Lichi tree in the courtyard of orchard. It has further been alleged in the FIR that one Rajo Sharma had died 6-8 months back and all the named accused persons called her witch and threatened that they will kill anyone of the family members of the informant. It has further been alleged that for this reason, the persons named in the FIR, hanged of her son, while she was out of her home and worked in the field and her daughter and her husband were also not present at the home.

Learned counsel appearing on behalf of the petitioners submits that there is no eye witness in the present case and *prima facie* no case is made out against the petitioners under Section 302/34 of the Indian Penal Code. He further submits that from the very perusal of FIR, the name of the petitioners have been implicated on the basis of assumption and the informant is not witness to the FIR nor any person have seen the petitioners in the alleged incident of hanging of the son of the informant, as such it is fit case to exercise jurisdiction for grant of anticipatory bail.

Learned counsel appearing on behalf of the informant is present and submits that the petitioners are offender in several cases as per his instructions. He has brought to the knowledge of this Court that he has been made accused in Uda-Kishunganj



P.S. Case No. 31 of 2012, registered for offence punishable under Sections 341, 323 324, 379, 504/34 of the Indian Penal Code. He further submits that the petitioners are having criminal antecedent and personally also they have threatened the informant and had publicly called her witch and threatened to kill anyone of the family members. There are ever chance that with the help of the co-accused, they must have hanged her son and as such they are not entitled for privilege of anticipatory bail.

Learned counsel appearing on behalf of the State submits that already process under Sections 82 and 83 of the criminal procedure code have been issued and submits that in view of several judicial pronouncements of the Apex Court and following the said proposition of law, this Hon'ble Court in Cr. Misc. No. 24521 of 2017 and other analogous cases by order dated 28.06.2017 has held that since process under Sections 82 and 83 of the Cr.P.C. has already been issued, the accused are not entitled for the privilege of anticipatory bail.

Having considered the rival submission of the parties and in view of the law settled by the Apex Court in the Case of **Lavesh Vs. State (NCT of Delhi)** reported in **(2012) 8 SCC 730** wherein paragraph no. 12 which reads as under:-



“12. From these materials and information, it is clear that the present appellant was not available for interrogation and investigation and was declared as “absconder”. Normally, when the accused is “absconding” and declared as a “Proclaimed offender”, there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code he is not entitled to the relief of anticipatory bail.”

The present application of the petitioners in my opinion cannot be allowed, in view of the settled principles of law by the Apex Court in the above mentioned case.

Having considered the facts and circumstances of the case, submissions of learned counsel for the parties, perusal of FIR and the case diary, I am not inclined to enlarge the petitioners on anticipatory bail.

Accordingly, the anticipatory bail application stands dismissed.

The petitioners, so advised, if surrender before the Court below within a period of four weeks from today and pray for Regular bail, the same shall be considered on its own merit in accordance with law.



Learned counsel appearing on behalf of the petitioners in course of dictation submitted that he may be permitted to delete the statement made in paragraph no. 3 regarding the criminal antecedent of the petitioners, which has been inadvertently been typed in the petition. He further submits that the petitioners as per his instructions has been made accused in Uda-Kishunganj P.S. Case No. 31 of 2012 registered for offence punishable under Sections 341, 323, 324, 379, 504/34 of the Indian Penal Code.

Learned counsel appearing on behalf of the petitioners is directed to delete paragraph no. 3, in course of the day.

(Purnendu Singh, J.)

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