

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9408 of 2021

Arising Out of PS. Case No.-340 Year-2019 Thana- MADHUBANI TOWN District-
Madhubani

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NISHI KUMARI @ NISHI RAUT W/o Ramesh Kumar Raut R/o Mohalla-
Bara Bazar, Ward No.- Town, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 15783 of 2021

Arising Out of PS. Case No.-340 Year-2019 Thana- MADHUBANI TOWN District-
Madhubani

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RAMESH KUMAR @ RAMESH KUMAR RAUT Son of Ashok Kumar
Raut R/o Mohalla- Bara Bazar, Ward No. 10, P.S.- Town, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 9408 of 2021)

For the Petitioner/s : Mr. Baidya Nath Prasad, Advocate

For the Opposite Party/s : Mr. Surendra Kumar, A.P.P.

(In CRIMINAL MISCELLANEOUS No. 15783 of 2021)

For the Petitioner/s : Mr. Baidya Nath Prasad, Advocate

For the Opposite Party/s : Mr. Khurshid Anwar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 04-08-2021 Heard Mr. Baidya Nath Prasad, learned counsel for

the petitioners in both the cases, Mr. Surendra Kumar (in Cr.

Misc. 9408 of 2021 and Mr. Khurshid Anwar (in Cr. Misc.

15783 of 2021, learned Additional Public Prosecutor, appearing

for the State through video conferencing.

The petitioners have filed the present anticipatory bail



applications for the second time inasmuch as the anticipatory bail application of the petitioners was earlier rejected by this Court in Cr. Misc. Nos. 10606 of 2020 vide order dated 28.9.2020. While this Court was not inclined to grant anticipatory bail to the petitioners, learned senior counsel appearing for the petitioners had sought permission to withdraw the anticipatory bail application with liberty to move before the court below for grant of regular bail and, accordingly, the anticipatory bail application of the petitioners was dismissed as withdrawn with liberty to the petitioners to file regular bail application before the court below. It appears that instead of filing a regular bail application before the court below, the petitioner has again filed anticipatory bail application for the second time.

The allegation against the petitioners and others as per the First Information Report is that son of the informant was student of Class VIII and in summer vacation, the informant came to her parental home along with her son. It has further been alleged that on 14.8.2019 at about 5:30 p.m. the informant was preparing breakfast for her son and on repeated calls, when her son was not responding, she went to his room and knocked the door, but no reply was coming and from window she saw



that her son was lying on the ground. It has also been alleged that thereafter her brother Ramesh Kumar Raut locked her in a room and on 15.8.2019 her brother-in-law (*Bhainsur*) namely, Amit Prakash and some other family members visited her parental house and examined the room and created impression that the deceased had committed suicide. The informant has alleged that the petitioners and other accused persons in conspiracy with each other have killed her son by assaulting him brutally and they tried to create an impression of suicide by hanging a broken rope with the fan.

Learned counsel for the petitioners submits that the petitioners have falsely been implicated in this case inasmuch as there is no motive for the petitioners to commit the present offence. Learned counsel next submits that the deceased has committed suicide which would be evident from the fact that door of the room in which deceased was lying, was found locked from inside. Learned counsel further submits that the informant had earlier lodged an UD case which was registered as UD Case No. 05 of 2019 dated 15.8.2019 and on provocation of in-laws of the informant, the present case was lodged after a delay of about one month i.e. on 12.9.2019. Learned counsel referring to Annexure-4 submits that the informant of this case



has filed a petition before the Chief Judicial Magistrate on 20.10.2020 stating therein that the First Information Report was lodged by the informant due to pressure put upon her by her brother-in-law (*Bhainsur*) namely, Amit Prakash.

On the other hand, learned counsel for the State vehemently opposed the prayer for anticipatory bail filed by the petitioners for the second time stating that at the first instance, when this Court was not inclined to grant anticipatory bail to the petitioners, learned senior counsel appearing for the petitioners had withdrawn the anticipatory bail application with liberty to file regular bail application. It appears that the petitioners have filed second bail applications on the basis of an alleged petition with affidavit submitted by the informant, after rejection of the first anticipatory bail application, in which she has stated that the First Information Report was lodged on the pressure of some other persons. Learned counsel next submits that filing of affidavit in the court of learned Chief Judicial Magistrate by the informant after rejection of first anticipatory bail application shows that side of the petitioners were putting pressure and intimidating the informant and other witnesses. Learned counsel next submits that the petitioners are specifically named in the First Information Report and the postmortem report reveals that



it is not a case of suicide inasmuch as multiple injuries have been found on the body of the deceased and the sufficient materials are available in the case diary against the accused persons including the petitioners. Learned counsel also submits that from perusal of paragraph-12 of the case diary, the postmortem report of the deceased reveals that black ligature mark in upper part of neck extending up to 1” below mastoid bone breadth of -1 C.M of ligature and bleeding through nose and mouth was present and swelling of upper and lower eyelid present and echymose present on upper eyelid, bruise present all over the chest, neck and face and due to that injuries subcutaneous bleeding present, rib was broken 2nd to 4th on both side of chest containing blood and blood clot, both lungs were lacerated and the doctor has opined in the postmortem report that the cause of death is due to haemorrhage and shock, as a result of above mentioned injuries caused by hard and blunt substance. Learned counsel accordingly submits that from the postmortem, it is clear that it is not a case of suicide.

After having heard learned counsel for the parties and taking into consideration the materials available on record, the fact that the Doctor has opined the cause of death due to hameorrhage and shock as a result of injury caused by hard and



blunt substance and further an anticipatory bail application was earlier dismissed as withdrawn with liberty to the petitioners to surrender before the court below and seek regular bail, but instead of filing regular bail, the petitioners have again moved before this Court for anticipatory bail on the basis of an affidavit filed by the informant subsequent to the rejection of first anticipatory bail application on 28.9.2020, I am not inclined to exercise my discretion for grant of anticipatory bail to the petitioners.

Accordingly, the prayer for anticipatory bail of the petitioners stand rejected.

(Anil Kumar Sinha, J)

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