

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13268 of 2022

Arising Out of PS. Case No.-36 Year-2021 Thana- KORMA District- Sheikhpura

1. ARVIND KUMAR Son of Karu Mahto Resident of Village - Batora, P.s.- Korma, Distt.- Sheikhpura.
2. AKHILESH MAHTO Son of Radha Mahto Resident of Village - Ishwa, P.s.- Sermera, Distt.- Nalanda.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Yogesh Chandra Verma, Sr. Advocate
Mr.Anuj Kumar, Advocate
For the Opposite Party/s : Mr.Ganesh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 19-09-2022 Heard learned senior counsel for the petitioners and learned A.P.P. for the State.

The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 302 and 34 of the Indian Penal Code read with Section 27 of the Arms Act.

The informant alleges that Arvind Kumar (petitioner no.1) took a loan of Rs. 10-12 lakhs from the informant's husband and repaid some amount but some amount was outstanding, it is next alleged that few days back Arvind Kumar's nephew was killed in a rail accident for which the petitioners were alleging that it was the husband of the



informant who was responsible for the occurrence. It is further alleged that the accused persons, including the petitioners, used to abuse and threaten the informant and her family members that the entire family would be finished of. It is further alleged that on the date of occurrence at 4:30 am, the husband of the informant had gone for his morning walk when he was shot, accordingly the informant reached the place of occurrence and found her husband lying in pool of blood and several firearm injuries were seen on the body and head. It is next alleged that the son of the informant Amit Ranjan had seen the accused persons, including the petitioners, fleeing from the place of occurrence thus alleges that the occurrence was committed by the accused persons.

Learned senior counsel for the petitioners submits that petitioner no.1 had one criminal antecedent but in that case he was acquitted as such he is a person with clean antecedent and petitioner no.2 is a person with clean antecedent as has been recorded in the supplementary affidavit, it is further submitted that from perusal of the allegations as alleged in the F.I.R. it would manifest that the same does not inspire confidence for the reason that the husband of the informant had gone for his morning walk at



4:30 am and hence it is not probable that the son would also have accompanied him when particularly from the allegations as alleged in the F.I.R. the same is not made out. Learned senior counsel further submits that the informant herself alleges that either the occurrence was committed on account of dispute relating to money or because the petitioners were of the opinion that their nephew Randhir who got killed in a rail accident was because of the husband of the informant, it is thus submitted that it absolutely does not stand to reason that as to why the petitioners would have committed the occurrence in presence of Amit who was known to them. Learned senior counsel next submits that the informant herself has alleged that on coming to know that her husband has been killed, she along with her family members rushed to the place of occurrence which amply demonstrates that she was not informed by Amit about the occurrence, it is next submitted that if the son would have seen the occurrence then definitely he would have informed the informant but informant in the F.I.R. does not even remotely suggest that it was Amit who had informed her about the occurrence, further the F.I.R. also does not disclose as to how the informant came to know about the occurrence that in itself creates a doubt with regard to the



veracity of the allegations as alleged in the F.I.R.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners and submits that the informant in the F.I.R. has alleged that the occurrence was witnessed by her son but then is not able to meet the submissions of the learned senior counsel for the petitioners that if the son had witnessed the occurrence then why he did not inform the informant about the occurrence and how the informant came to know about the occurrence in pursuance thereof she rushed to the place of occurrence.

Considering the submissions made by the learned senior counsel for the petitioners and the fact that the petitioners are person with clean antecedent, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Korma P.S. Case No. 36 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.



If the police after investigation submits charge-sheet against the petitioners, then the present anticipatory bail order shall lose its effect, further the petitioner will also cooperate in the investigation.

(Satyavrat Verma, J)

Rishi/-

U		T	
---	--	---	--

