

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.36397 of 2021**

Arising Out of PS. Case No.-322 Year-2020 Thana- GAUTAMBUDHNAGAR District-  
Siwan

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1. ZAKIR HUSSAIN Son of Late Abdul Kadir Resident of Village - Basitpur, P.S.- G.B. Nagar (Tarwara), District - Siwan
  2. Md. Naim Son of Late Md. Sarif Resident of Village - Basitpur, P.S.- G.B. Nagar (Tarwara), District - Siwan
  3. Md. Salim Son of Late Md. Sarif Resident of Village - Basitpur, P.S.- G.B. Nagar (Tarwara), District - Siwan
  4. Md. Kalim Son of Late Md. Sarif Resident of Village - Basitpur, P.S.- G.B. Nagar (Tarwara), District - Siwan
  5. Md. Halim Son of Late Md. Sarif Resident of Village - Basitpur, P.S.- G.B. Nagar (Tarwara), District - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

|                            |                      |
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| For the Petitioner/s :     | Mr.Vaishnavi Singh   |
| For the Opposite Party/s : | Mr.Ajay Kumar Tiwary |
|                            | Mr. Abhay Kumar Roy  |

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**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY**

ORAL ORDER

2      03-02-2022                      The learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard the learned counsel for the petitioners and learned APP for the State through video conferencing.

The petitioners apprehend their arrest for the offences alleged under Sections 302/34 of the Indian Penal Code, registered in connection with G.B.Nagar P.S.Case No.



322 of 2020.

Sairun Nisha, the informant has lodged the present FIR, stating therein that her son Asgar Ali went out of the house along with co-accused Shahid Ali and they were talking near the Masjid, after sometime she heard the sound of fire-shot. The informant rushed to the place of occurrence when co-accused Shahid Ali apprised her that two unknown persons had murdered the deceased Asgar Ali. She has also mentioned in the FIR that a civil suit was pending between the informant and her agnates in the civil court, Siwan.

The learned counsel for the petitioners has submitted that they are not named in the FIR and there is admittedly land dispute between the parties and co-accused Shahid Ali, who was talking with the deceased, has been granted regular bail.

From perusal of the order of the learned Additional Sessions Judge -III, Siwan, it appears that the informant has expressed her firm belief in her statement under Section 164 of the Cr.P.C. that due to land dispute the accused persons, after hatching a conspiracy, killed her son. The informant Sairun Nisha in paragraph no.32 of the case diary has also spoken about the complicity of the petitioners in the alleged occurrence. Similarly, the witnesses in paragraph nos. 9, 10, 32, 44 and 45 of



the case diary have fully supported the complicity of the present petitioners. In paragraph no.2 of the case diary, which contains the inquest report, as mentioned in the order of the learned Additional Sessions Judge, shows that the shot hit at the left portion of the chest of the deceased.

Considering the above facts and circumstances, I do not find it a fit case for anticipatory bail. The prayer for anticipatory bail on behalf of the petitioners is hereby rejected.

Office shall ensure that all defects are removed by the petitioners within the stipulated time as provided hereinabove, failing which the matter shall be brought to the notice of this Court.

**(Nawneet Kumar Pandey, J)**

HR/-

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