

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35516 of 2022

Arising Out of PS. Case No.-351 Year-2021 Thana- CHANDAUTI District- Gaya

1. PHULENDRA KUMAR SON OF KAPIL YADAV RESIDENT OF VILLAGE -GULJAR BIGHA BAKARPUR TOLA, P.S.- MAKHDUMPUR, DISTRICT- JEHANABAD
2. ARJUN KUMAR SON OF KAPIL YADAV RESIDENT OF VILLAGE -GULJAR BIGHA BAKARPUR TOLA, P.S.- MAKHDUMPUR, DISTRICT- JEHANABAD
3. DEEPU KUMAR SON OF KAPIL YADAV RESIDENT OF VILLAGE -GULJAR BIGHA BAKARPUR TOLA, P.S.- MAKHDUMPUR, DISTRICT- JEHANABAD
4. RAJU YADAV SON OF SIDHESHWAR YADAV RESIDENT OF VILLAGE -GULJAR BIGHA BAKARPUR TOLA, P.S.- MAKHDUMPUR, DISTRICT- JEHANABAD

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 45995 of 2022

Arising Out of PS. Case No.-351 Year-2021 Thana- CHANDAUTI District- Gaya

ANIL KUMAR @ ANIL YADAV S/o Krishna Yadav Resident of Village- Makarpur Tola Guljar Bigha, P.S.- Makhdumpur, District- Jehanabad.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 35516 of 2022)

For the Petitioner/s : Mr. Binoy Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Bharat Lal, APP

For the Informant/s : Mr. Ashok Kumar, Advocate

(In CRIMINAL MISCELLANEOUS No. 45995 of 2022)

For the Petitioner/s : Mr. Umesh Kumar, Advocate

For the Opposite Party/s : Mr. Rajendra Nath Jha, APP

For the Informant/s : Mr. Ashok Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

3 29-11-2022

CRIMINAL MISCELLANEOUS No.35516 of 2022

Heard learned counsel for the petitioners, learned



counsel for the informant and learned A.P.P. for the State.

Learned counsel for the petitioners submits that petitioner nos. 2, 3 and 4 apprehend their arrest in a case registered for the offences punishable under Section 302, 201 and 120(B) of the Indian Penal Code read with Section 27 of the Arms Act.

Learned counsel for the petitioners submits that petitioners have antecedent of one case and the said case was also instituted from the side of the informant only, further the informant alleges that on 09.11.2021 at 11:00 AM, her husband had gone to Makhdumpur market but did not return home till evening and his mobile was also switched off and later she got information from the police station that her husband has been killed and on the said information she reached the place of occurrence and found the dead body of her husband, it is next alleged that her husband was a driver and had scuffled on account of land dispute with the accused persons, including the petitioners, further about 2-3 days ago, Rambali Yadav, who is uncle of Raju Yadav (petitioner no.4), had come to her house and had threatened to kill him within ten days, as such based on suspicion it is alleged that petitioners under conspiracy might have killed her husband.



Learned counsel for the petitioners submits that from bare perusal of allegation as alleged in the FIR it would manifest that informant is not an eye-witness to the occurrence, the entire allegation hinges around suspicion, there is admitted land dispute between the parties and the criminal antecedent, which is mentioned at Para-3 of the anticipatory bail application, was a case which was instituted from the side of the informant earlier as aforesaid, it is also submitted that petitioners and informant are agnates.

Learned counsel for the petitioners submits that even during the course of investigation no material has come which could even remotely connect the petitioners with the offence, it is next submitted that at Para-4 of the case diary statement of Santosh (nephew of the deceased) has been recorded who has reiterated the allegation as alleged in the FIR, further statement of Nand Kishore Prasad and Kishori Yadav, villagers, have been recorded at Para-6 of the case diary, wherein they have stated that at 2:00 PM they had seen the deceased at Makhdumpur market, the learned counsel for the petitioners next submits that from perusal of Para-48 of the case diary, it would manifest that the same records about the CDR of the mobile of the deceased and from perusal of the same it appears that the petitioners at



that in between 2:00-2:15 PM was at Tekari and was continuously talking with the son-in-law of his elder brother, as such it is submitted that petitioners could not have been at Makhdumpur market at 2 O' clock, when from his CDR it manifests that his location at that point of time was at Panchapur, Tekari, the learned counsel for the petitioners next submits that even during the course of investigation not a single eye-witness was found.

Learned A.P.P. for the State and learned counsel for the informant oppose the prayer for anticipatory bail of the petitioners, but are not able to rebut the submissions of the learned counsel for the petitioners that the entire allegation hinges around suspicion, there are no eye-witness to the occurrence and there is admitted land dispute between the parties.

Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned trial court 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 trial court where



the case is pending/successor court in connection with Chandauti P.S. Case No. 351 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

CRIMINAL MISCELLANEOUS No. 45995 of 2022

Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State.

Learned counsel for the petitioner submits that petitioner apprehends his arrest in a case registered for the offences punishable under Section 302, 201 and 120(B) of the Indian Penal Code read with Section 27 of the Arms Act.

Learned counsel for the petitioner submits that petitioner has antecedent of one case and the said case was also instituted from the side of the informant only, further the informant alleges that on 09.11.2021 at 11:00 AM, her husband had gone to Makhdumpur market but did not return home till evening and his mobile was also switched off and later she got information from the police station that her husband has been killed and on the said information she reached the place of occurrence and found the dead body of her husband, it is next alleged that her husband was a driver and had scuffle on account of land dispute with the accused persons, including the petitioner, further about 2-3 days ago, Rambali Yadav, who is uncle of Raju Yadav (petitioner no.4), had come to her house



and had threatened to kill him within ten days, as such based on suspicion it is alleged that petitioner under conspiracy might have killed her husband.

Learned counsel for the petitioner submits that from bare perusal of allegation as alleged in the FIR it would manifest that informant is not an eye-witness to the occurrence, the entire allegation hinges around suspicion, there is admitted land dispute between the parties and the criminal antecedent, which is mentioned at Para-3 of the anticipatory bail application, was a case which was instituted from the side of the informant earlier as aforesaid, it is also submitted that petitioner and informant are agnates.

Learned counsel for the petitioner submits that even during the course of investigation no material has come which could even remotely connect the petitioner with the offence, it is next submitted that at Para-4 of the case diary statement of Santosh (nephew of the deceased) has been recorded who has reiterated the allegation as alleged in the FIR, further statement of Nand Kishore Prasad and Kishori Yadav, villagers, have been recorded at Para-6 of the case diary, wherein they have stated that at 2:00 PM they had seen the deceased at Makhdumpur market, the learned counsel for the petitioner next submits that



from perusal of Para-48 of the case diary, it would manifest that the same records about the CDR of the mobile of the deceased and from perusal of the same it appears that the petitioner at that in between 2:00-2:15 PM was at Tekari and was continuously talking with the son-in-law of his elder brother, as such it is submitted that petitioner could not have been at Makhdumpur market at 2 O' clock, when from his CDR it manifests that his location at that point of time was at Panchapur, Tekari, the learned counsel for the petitioner next submits that even during the course of investigation not a single eye-witness was found.

Learned A.P.P. for the State and learned counsel for the informant oppose the prayer for anticipatory bail of the petitioner, but are not able to rebut the submissions of the learned counsel for the petitioner that the entire allegation hinges around suspicion, there are no eye-witness to the occurrence and there is admitted land dispute between the parties.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/-



(Rupees Ten Thousand) with two sureties of the like amount to the satisfaction of the learned trial court where the case is pending/successor court in connection with Chandauti P.S. Case No. 351 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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