

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12451 of 2023

Arising Out of PS. Case No.-99 Year-2015 Thana- RAJNAGAR District- Madhubani

1. ASHOK RAM @ ASHOK KUMAR S/O Bauan Ram R/O Village-
Pipraulia, P.S- Raj Nagar, District- Madhubani
2. Bauan Ram S/O Late Guran Ram R/O Village - Pipraulia, P.S - Raj Nagar,
District - Madhubani

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rama Kant Sharma, Sr. Advocate Mr. Rajesh Kumar, Advocate
For the Opposite Party/s	:	Mr. Chandra Bhushan Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 4 27-07-2023 1. Heard learned Senior Counsel for the petitioners
and learned A.P.P. for the State.
2. The petitioners apprehend their arrest in a case
registered for the offences punishable under Sections 302, 341,
323, 448 and 504/34 of the Indian Penal Code.
3. Learned Senior Counsel for the petitioners submits
that petitioners are persons with clean antecedent.
4. The informant alleges that while she was admitted
in a hospital on account of assault by the accused persons, her
son-in-law brought her daughter-in-law (Shobha Devi) to
hospital who disclosed that the accused persons entered into the
house when she was alone and pressed her neck and forcefully
twisted it causing severe pain and then both the petitioners fled



away. It is further alleged that Shobha Devi was referred to DMCH, Darbhanga where she died during the course of treatment.

5. Learned Senior Counsel for the petitioners submits that petitioners have been falsely implicated in the present case. It is further submitted that police after investigation submitted charge-sheet no. 327 of 2017 under Sections 341, 323, 504 and 34 of the Indian Penal Code (Annexure-4 to the anticipatory bail application). It is further submitted that the petitioners were also on police bail during the course of investigation. It is next submitted that the learned trial court differing with the police report took cognizance under Sections 302, 323, 341 and 504 of the Indian Penal Code by order dated 16.03.2019 when the postmortem report records that there is no external or internal injury. It is also submitted that when the postmortem report records that there is no external or internal injury that in itself demonstrates that the deceased was never assaulted in the manner as alleged by the informant. It is further submitted that the petitioners moved in revision before the learned Sessions Judge against the order dated 16.03.2019 by which cognizance was taken. The revision was admitted but the same was dismissed by order dated 03.08.2022, hence, there is



apprehension of arrest. Learned Senior Counsel for the petitioner submits that no doubt the petitioners were on police bail and relied on a judgment of this Court reported in **2015(3)PLJR 618 (Gauri Shankar Vs. The State of Bihar)** wherein this Court after examining the provision of law and the earlier judgments had come to a considered conclusion that the anticipatory bail is maintainable in the event if the privilege of Section 41(1) of the Cr.P.C. is granted to the accused persons. Learned Senior Counsel at the cost of repetition submits that the postmortem report does not even remotely suggest that there was any external or internal injury and the police after investigation did not find it to be a case under Section 302 of the Indian Penal Code. It is thus submitted that if one investigating agency after threadbare investigation came to a considered conclusion that it was not a case of murder whether it would be justifiable to send the petitioner behind the bar at this stage.

6. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

7. 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 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 Raj
Nagar P.S. Case No. 99 of 2015, subject to the conditions as laid
down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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