

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55078 of 2023

Arising Out of PS. Case No.-49 Year-2023 Thana- KARPI District- Jehanabad

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SUNIL KUMAR @ ANIL SON OF LATE KHARGU SINGH RESIDENT
OF VILLAGE- SHIV NAGAR, PS- KARPI, DIST- ARWAL

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 55168 of 2023

Arising Out of PS. Case No.-49 Year-2023 Thana- KARPI District- Jehanabad

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DHEERAJ KUMAR @ DHEERAJ SHARMA son of Nirbhay Sharma
village- Shiv Nagar Ps- Karpi Dist- Arwal

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 55078 of 2023)

For the Petitioner/s : Mr. Manoj Kumar

For the Opposite Party/s : Mr. Md. Fahimuddin

(In CRIMINAL MISCELLANEOUS No. 55168 of 2023)

For the Petitioner/s : Mr. Manoj Kumar

For the Opposite Party/s : Mr. Md. Fahimuddin

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 3 06-12-2023 1. Heard learned Counsel for the petitioner and learned
Additional Public Prosecutor for the State.
2. This application, for grant of anticipatory bail, arises out
of Karpi Police Station Case No. 49 of 2023, dated
15.02.2023, disclosing offences under Sections
341/323/302/504/506/34 of the Indian Penal Code.



3. The prosecution case, as per the First Information Report, is that on 15.02.2023, at about 05:00 PM, the informant's elder brother, namely, Upendra Sharma (deceased), came outside of the house for taking milk, then the accused persons, including the the petitioners, assaulted the informant's brother on his head by means of iron rod and lathi, due to which the brother of the informant died.
4. Learned counsel appearing for the petitioners in Cr. Misc. No. 55078 of 2023 and Cr. Misc. No. 55168 of 2023 submits that the petitioners have falsely been implicated in this case due the fact that 85 decimal of land, standing in the name of the mother of the petitioner-Sunil Kumar, has falsely been occupied by the side of the informant, which is being objected by the petitioner's side. The petitioners and informant are agnates and due to land dispute, First Information Report, bearing Karpi Police Station Case No. 27 of 2023, was lodged by the co-accused Dharmendra Kumar in which deceased, alongwith others were made accused. Learned counsel relied upon the order, dated 30.08.2023, passed by a Co-ordinate Bench of this Court in Cr. Misc. No. 53365 of 2023, whereby the co-accused persons were granted anticipatory bail.



5. On the other hand, learned counsel for the State vehemently opposes the prayer for anticipatory bail and submits that there is direct allegation against the petitioners that they, alongwith others, assaulted on the head of the deceased. From perusal of the case diary and postmortem report, it appears that there is sufficient material against the petitioners to connect them with the present offence. Referring to postmortem report, learned counsel submits that doctor has found multiple injuries on the skull of the deceased and has opined that the cause of death is due to the head injury, leading to neurogenic shock and cardio respiratory arrest.
6. I have heard learned counsel for the parties and have gone through the materials available on record.
7. From the case diary, it appears that the witnesses have disclosed the name of the petitioners as assailant and from perusal of the First Information Report also, the direct allegation of assault by means of iron rod and lathi on the head of the deceased is against the the petitioners, alongwith others. The doctor, in the postmortem report, has found multiple head injuries and has opined that the caused of death is due to the head injury.



8. In view of the direct allegation of assault against the petitioners and the fact that there is prima facie material available against the petitioners, which is corroborated by the postmortem report, I am not inclined to grant benefit of parity to the petitioners.
9. Accordingly, these anticipatory bail applications of the petitioners are rejected.

(Anil Kumar Sinha, J)

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