

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61889 of 2023

Arising Out of PS. Case No.-269 Year-2022 Thana- KUCHAIKOTE District- Gopalganj

1. DAUD MIYA S/O LATE HAIDAR ALI R/O VILLAGE- AMAWA VIJAYPUR, PS. KUCHAIKOTE, DIST. GOPALGANJ, BIHAR
2. MONAJIR @ MANAJIR @ MANAJIR MIYA @ MONAJIR HUSSAIN S/O LATE HAIDAR ALI R/O VILLAGE- AMAWA VIJAYPUR, PS. KUCHAIKOTE, DIST. GOPALGANJ, BIHAR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Indrajeet Bhushan
For the Opposite Party/s : Mr. Mukesh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 2 11-10-2023 1. Heard learned Counsel for the petitioners and learned Additional Public Prosecutor for the State as well as learned counsel for the informant.
2. This application, for grant of anticipatory bail, arises out of Kuchaikote Police Station Case No. 269 of 2019, disclosing offences under Sections 302/34 of the Indian Penal Code.
3. The prosecution case, on the basis of First Information Report, is that on 14.06.2022, the informant heard a rumour in the village that dead body of a person is lying under a tree near embankment. After hearing rumour, the petitioner, along with other family members, reached the place and found that the dead body of informant's elder



brother, namely, Manoj Kumar Sah, was lying on the ground having its face down. Accordingly, the informant has raised suspicion against the petitioners and other co-accused persons that his brother has been killed by the back side of axe and knife.

4. Learned Counsel for the petitioners submits that the petitioners have falsely been implicated in this case on the basis of suspicion, which is evident from the First Information Report itself. There is no eye-witness to the occurrence and the fact of the matter is that the informant's brother (deceased) was plucking *amarak* (starfruit) and in course of that he fell on the ground near root/stem of the tree and died due to head injury. Referring to the impugned order, learned counsel submits that postmortem report indicates that there was skull frontal bone fracture, brain material rupture, nasal bone fracture, fractured chin (lower jaw). He next submits that except the suspicion against the petitioners, no other materials have come against them during the course of investigation.
5. On the other hand, learned counsel for the informant vehemently opposes the prayer for bail and submits that



out of eight co-accused persons, two have been arrested by the police and four have surrendered themselves after rejection of their anticipatory bail application by the learned Additional Sessions Judge-V, Gopalganj. The petitioners, instead of surrendering themselves, have approached this Court for grant of anticipatory bail, which they do not deserve as they have been specifically named in the First Information Report and the police is also helping the accused persons. He next submits that a petition has been filed by the informant before the learned Chief Judicial Magistrate, Gopalganj and the learned Chief Judicial Magistrate *vide* his order, dated 24.06.2023, has directed the Superintendent of Police to supervise the case and has also recommended for initiation of departmental proceeding against the Investigation Officer of the case for not arresting the accused persons.

6. I have heard learned counsel for the parties and have gone through the materials available on record.
7. From perusal of the First Information Report, it appears that on the basis of the suspicion, petitioners and other accused persons have been made accused in the present



case. The First Information Report has been lodged after delay of one day and it appears that there is previous enmity between parties due to some dispute over passage. As appears from the impugned order and submissions made by learned counsel for the parties, no cogent materials have come against the petitioners during the course of investigation to connect them with alleged offence, accordingly, I am inclined to grant the petitioners privilege of anticipatory bail.

8. This application is, accordingly, allowed.
9. Let the petitioners, above named, in the event of their arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-I, Gopalganj, in connection with Kuchaikote Police Station Case No. 269 of 2022, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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