

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23545 of 2024

Arising Out of PS. Case No.-650 Year-2023 Thana- COMPLAINT CASE District- Banka

1. Shashi Bhushan Mandal S/O Late Mani Mandal Resident Of Village -Kamatpur, P.S- Shambhuganj, Distt.- Banka.
2. Gautam Mandal @ Gautam Kumar S/O Upendra Mandal Resident Of Village -Kamatpur, P.S- Shambhuganj, Distt.- Banka.
3. Niranjana Mandal S/O Vindeshwari Mandal Resident Of Village -Kamatpur, P.S- Shambhuganj, Distt.- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sunita Devi @ Kumari Sunita W/O Sabnam Kumar Sanu @ Anil Yadav R/O Ghoshpur, P.S- Shambhuganj, Distt.- Banka.

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Navin Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 01-05-2024 Heard learned counsel for the petitioners and learned
APP for the State.

2. In the present case, the petitioners are apprehending their arrest in connection with Complaint Case No. 650 of 2023, arising out of Shambhuganj P.S. Case No. 138 of 2018, registered on 05.07.2018 for the offences under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act, wherein cognizance has been taken for the offences under Sections 302/34 of the Indian Penal Code.

3. As per prosecution case, Shambhuganj P.S.



Case No. 138 of 2018 came to be lodged by complainant as informant with allegation against the petitioners that they shot dead the father-in-law of the complainant. Police submitted closure report and thereafter, on the basis of protest petition of the informant, the matter proceeded in Complaint Case No. 650 of 2023 and on the basis of complaint petition, postmortem report and the statement of the witnesses, the learned trial court took cognizance under Sections 302/34 of the Indian Penal Code against the petitioners.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in this case. The police investigated the matter after registration of the FIR and submitted final form in favour of the petitioners holding that the participation of the petitioners in the occurrence was not found true and petitioners were not sent up for facing the trial. However, on the protest cum complaint petition, the learned trial court took cognizance under Sections 302/34 of the Indian Penal Code against the petitioners. Learned counsel further submits that the genesis of the case is in the FIR lodged by petitioner no. 1 Shashi Bhushan Mandal against the husband and brother-in-law of the complainant vide Shambhuganj P.S. Case No. 165 of 2016 for the murder of his brother, who was



Mukhiya of Gram Panchayat Kamatpur. Due to this enmity, petitioners have been made accused in this case. Petitioner nos. 2 and 3 are witness in the case lodged by petitioner no. 1. For this reason, the petitioners have been falsely implicated in order to pressurized them not to depose in the case lodged by petitioner no. 1 for the murder of his brother. Petitioners have got no criminal antecedent.

5. Learned APP vehemently opposes the submission made on behalf of the petitioners. Learned APP submits that the allegation of committing murder of father-in-law of the complainant and petitioners have been specifically named in the FIR as well as in the complaint petition.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the possibility of false implication especially in view of closure report submitted and the previous case against the husband and brother-in-law of the complainant, let the petitioners above named, in the event of their arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of learned Sub-divisional



Judicial Magistrate, Banka/concerned court in connection with
Complaint Case No. 650 of 2023, arising out of Shambhuganj
P.S. Case No. 138 of 2018, subject to the condition as laid down
under Section 438(2) of the Code of Criminal Procedure and
other following conditions :

- (i) One of the bailors will be a close
relative of the petitioners.
- (ii) The petitioners will remain present
on each and every date fixed by the
court below, if so required by the
learned trial court.

(Arun Kumar Jha, J)

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