

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30985 of 2024

Arising Out of PS. Case No.-222 Year-2022 Thana- BANIAPUR District- Saran

1. Hari Mohan Singh Son of Late Jagdeo Singh Resident of Village- Pandeypur, P.S.- Baniyapur, District- Saran at Chapra
2. Dinesh Mahto Son of Lakhan Mahto Resident of Village- Pandeypur, P.S.- Baniyapur, District- Saran at Chapra
3. Shankar Kumar Singh @ Shankar Singh @ Shankar Kumar Son of Bamdeo Singh Resident of Village- Pandeypur, P.S.- Baniyapur, District- Saran at Chapra

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Jeetendra Narayan, Advocate

For the Opposite Party/s : Mr.Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 04-09-2024 Heard learned counsel for the petitioners and learned
APP for the State.

2. The accused-petitioners, named in the F.I.R., are apprehending their arrest in connection with S. Tr. No. 742/2022 arising out of Baniyapur P.S. Case No. 222 of 2022 registered for the offences punishable under Sections 302 read with 34 of the Indian Penal Code, where occasion to file present petition arises only after when a notice was issued by the learned trial court under Section 319 of the Code of Criminal Procedure (in short the "Cr.P.C.").

3. The allegation against the petitioners as appears



available from the face of F.I.R. is to assault the grand-father of the informant alongwith other co-accused persons, where occurrence is alleged to be arises due to toddy related issues.

4. Learned counsel appearing on behalf of the petitioners submitted that petitioners were falsely implicated and, for said reasons only, after police investigation, no charge-sheet was submitted against him and they were not sent up for trial. It is also submitted that cognizance was also not taken by the learned trial court but during course of trial, on the basis of deposition of three witnesses, who named these petitioners, a notice was issued by the learned trial court to petitioners to face the trial in view of Section 319 of the Cr.P.C. It is submitted that prayer of anticipatory bail of the petitioner was rejected by the learned trial court considering only the gravity of accusation. It is submitted that from the deposition of witnesses, there was no occasion to issue notice to the petitioner as to face the trial.

5. While concluding argument, it is submitted that main co-accused having specific allegation namely, Binod



Singh has already granted bail by one of the learned coordinate Benches of this Court through Cr. Misc. No. 45211/2024 dated 05.07.2024.

6. Learned A.P.P. for the State, while opposing the prayer of anticipatory bail of the petitioners, submitted that sufficient evidence has surfaced during the course of trial as to issue summon to the petitioner to face the trial in view of section 319 of the Cr.P.C.

7. Considering the factual submissions and by taking note of the fact as implication of these petitioners appears as per provision available under Section 319 of the Cr.P.C., where they are not facing specific allegation to commit murder of grand-father of the informant, accordingly, above-named petitioners, in the event of their arrest/surrender within a period of four weeks from today, are directed to be enlarged on bail on furnishing of bail bond of Rs.10,000/- (ten thousand only) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-IXth, Saran at Chapra/concerned court in connection with S. Tr. No. 742/2022 arising out of



Baniyapur P.S. Case No. 222 of 2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C/Section 482(2) of the Bhartiya Nyaya Suraksha Sanhita (in short "B.N.S.S.").

Accused/Petitioners shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioners duly supported by the documents.

(Chandra Shekhar Jha, J.)

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