

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33674 of 2024

Arising Out of PS. Case No.-219 Year-2023 Thana- SIMRI BAKHTIYARPUR District-
Saharsa

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1. Bachiya Devi @ Baccha Devi Wife of Surendra Yadav @ Bijali Yadav
Resident of Village - Paharpur, Police Station - Simari Bakhtiyarpur (Balwa
Hat O.P.), District - Saharsa.
 2. Manish Yadav @ Malkhan Yadav @ Manish Kumar Son of Rajo Yadav
Resident of Village - Paharpur, Police Station - Simari Bakhtiyarpur (Balwa
Hat O.P.), District - Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Satish Singh Advocate Mr. Dinesh Maharaj, Advocate
For the Opposite Party/s	:	Mr. Shailendra Kumar Singh, APP Mr. Digvijay Kumar Ojha, Advocate Mr. Kamal Kishore Sinha, Advocate Mr. Ashok Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 09-08-2024

1. Heard learned counsel for the parties.

2. The petitioners have preferred this application for grant of anticipatory bail apprehending their arrest in connection with Simri Bakhtiyarpur (Balwa Hat O.P) P.S. Case no. 219 of 2023 registered under sections 302 and 34 of the Indian Penal Code.

3. As per the prosecution case, the informant states that on 1.5.2023 at about 3 pm, on hearing some *hulla* being raised, the informant along with some villagers reached in the said direction. There it is stated that they saw the three named accused persons including the two petitioners herein along with



5-6 others. Seeing the informant, the accused started to run away from the place of occurrence. The informant saw his son aged about 15-16 years lying dead. The informant states that he had been murdered and the accused had run away.

4. Learned counsel for the petitioners submits that the petitioners have been falsely implicated in the case. On perusal of the FIR itself it would be evident that neither the informant nor any other witness, whose statements have been recorded in course of investigation, are eye witnesses to the actual occurrence. The manner of occurrence is other than what has been narrated in the FIR and the same would also be substantiated from the contents of the postmortem report, according to which the time of death would be between 9:10 pm on 30.4.2023 and 9:10 am on 1.5.2023 and not as stated in the F.I.R. It is further submitted that after investigation final form was submitted against the petitioners, however differing with the same the learned trial Court was pleased to take cognizance by order dated 20.9.2023 under section 302 of the Indian Penal Code. The petitioners have no criminal antecedent and undertake to cooperate in the case.

5. The application for anticipatory bail is opposed by learned A.P.P. for the State and learned counsel for the



informant. Learned counsel for the informant submits that not only the petitioners are named in the FIR but they were seen by the informant and others running away from the place of occurrence where soon after their escaping, the dead body of the son of the informant was discovered. It is submitted that the witnesses whose statements have been recorded in course of investigation have supported the prosecution case. So far as the contents of the postmortem report is concerned, these points could be available to the petitioners not at this stage but in course of trial. This being a case of anticipatory bail, the application be rejected.

6. Having heard learned counsel for the parties and having perused the material on record which has transpired in course of investigation, the submissions made by learned counsel for the petitioners including the submission with respect to the postmortem report, there being no eye witness to the occurrence, charge-sheet having been submitted in the case and the petitioners not having any criminal antecedent, it is directed that both the petitioners, above named, in the event of their arrest or surrender before the learned Court below within a period of four weeks, be released on anticipatory bail in connection with Simri Bakhtiyarpur (Balwahat O.P) P.S. Case



no. 219 of 2023 on each of them furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Saharsa.

(Partha Sarthy, J)

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