

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66176 of 2023

Arising Out of PS. Case No.-398 Year-2022 Thana- KHAIRA District- Saran

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1. BIRENDRA RAI @ BIJENDRA RAI @ BIRENDRA KUMAR YADAV
Son of Harendra Rai R/o vill - Makshudpur Tola Baluwa, P.S. - Kaira, Distt.
- Saran at Chapra
 2. Harendra Rai Son of Late Raghunath Rai R/o vill - Makshudpur Tola
Baluwa, P.S. - Kaira, Distt. - Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar, Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar, Advocate
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 29-02-2024 Heard Mr. Vijay Kumar, learned counsel for the
petitioners and Mr. Jitendra Kumar Singh, learned APP.

2. The petitioners are apprehending their arrest in
connection with Khaira P.S. Case No. 398 of 2022 for the
offence under sections 302/34 of the I.P.C. lodged on
26.10.2022 by the informant, Gyanti Devi.

3. As per the prosecution story, the informant alleged
that due to land dispute, the accused persons assaulted her
husband and when his son came to his rescue, he too was
assaulted. Her husband died on the spot itself. Accordingly, the
FIR.

4. In this case, a co-ordinate Bench had called for case



diary on 08.11.2023 which is on record.

5. Learned counsel for the petitioners submit that even a perusal of the learned Session Judge order as well as the post-mortem report would show that the informant's husband died of cardigenic shock due to massive heart failure. Further, there is no external injury on the body of the informant's husband and only due to land dispute, the father and son have been implicated, they do not have criminal antecedent.

6. Mr. Jitendra Kumar Singh, learned APP has gone through the post-mortem report which is part of the case diary and though he submits that there is allegation of assault on the two petitioners herein, his further submission is that the post-mortem report does not talk about any external injury and the death was due to heart failure.

7. Taking into account the submissions put forward by the parties as also the fact that the death of the informant's husband is due to heart failure, they do not have criminal antecedent, this Court is inclined to extend them the privilege of anticipatory bail with conditions.

8. Let the petitioners be released on bail in the event of arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/-



(Ten thousand) each with two sureties of like amount each to the satisfaction of learned J.M., Chapra 1st Saran at Chapra in connection with Khaira P.S. Case No. 398 of 2022 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family member of the petitioners who shall provide official document to show his/her bona fide;

(ii) the petitioners shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial Court itself;

(iii) the petitioners shall appear before the concerned police station every fortnight for next six months to mark their attendance;

(iv) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioners shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of their bail bonds.

9. Anything recorded in the order is only for the



purpose of consideration of anticipatory bail which would not
be taken into consideration at any point of time.

(Rajiv Roy, J)

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