

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78190 of 2024

Arising Out of PS. Case No.-186 Year-2019 Thana- BUXAR MUFFSIL District- Buxar

1. Bhagwan Sah @ Sri Bhagwan Sah Son of Late Saryu Sah Resident of Village- Pasaraha, P.S.- Itarhi, Distt.- Buxar
2. Birendra Sah Son of Bhagwan Sah @ Sri Bhagwan Sah Resident of Village- Pasaraha, P.S.- Itarhi, Distt.- Buxar
3. Aniket Gupta @ Aniket Kumar Son of Birendra Sah Resident of Village- Pasaraha, P.S.- Itarhi, Distt.- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Jitendra Kumar Singh, Advocate
	:	Mr.Varun Krishna Singh, Advocate
For the Opposite Party/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 2 03-12-2024 1. Heard learned Counsel for the petitioners and learned APP for the State.
2. This application, for grant of anticipatory bail, arises out of Buxar (Muffasil) PS case no. 186 of 2019, disclosing offences punishable under Sections 302/34, 120B of the Indian Penal Code and Section 27 of the Arms Act.
3. The prosecution story, as per the First Information Report, is that on 04.07.2019 in the morning, while the informant's brother was going on a motorcycle along with Munna Kumar Singh, all of a sudden, accused persons including petitioner no. 3 came there on two motorcycles and co-accused



Mulayam Yadav shot the brother of the informant on his head, due to which, he fell down and died. Petitioners no. 1 and 2 are said to be conspirators and petitioner no. 3 was sitting on the motorcycle, at the time of occurrence.

4. Learned Counsel for the petitioners submits that petitioners have been made accused due to previous enmity between the parties and for which, Itarhi PS Case No. 69 of 2012 has been filed. Learned counsel further submits that the Police, after investigation, submitted final form on the ground of lack of evidence against the petitioners and charge-sheet against accused persons namely Vikash Kumar and Mulayam Yadav. The final form was submitted on 31.12.2023 but the learned Magistrate, differing with the final form, took cognizance against the petitioners along with others under Sections 302/34, 120B of the Indian Penal Code and Section 27 of the Arms Act on 08.04.2024.

5. On the other hand, learned counsel for the informant vehemently opposed the prayer for anticipatory bail and submits that petitioners no. 1, 2 and 3 are conspirators and on their instance, co-accused Mulayam Yadav shot the informant's brother, due to which, he died. Petitioner no. 3 was sitting on a motorcycle, which was used at the time of



occurrence by the co-accused persons. He further submits that the Police were not investigating the case properly, for which, criminal writ petition was filed. He also submits that the occurrence has taken place due to the fact that deceased was the witness in a case lodged by his cousin against the petitioners in Itarhi PS Case No. 69 of 2012.

6. Having heard learned counsel for the parties and taking into consideration the fact that Police, after investigation, submitted final form on the ground of lack of evidence against the petitioners, I am inclined to grant the privilege of anticipatory bail to the petitioners no. 1 and 2.

7. Insofar as petitioner no. 3 is concerned, he was seen sitting on the motorcycle at the time of occurrence, when bullet was fired by one of the accused upon the deceased, hence, the prayer for anticipatory bail *qua* petitioner no. 3 stands rejected.

8. This application is, partly, allowed.

9. Let petitioners no. 1 and 2, abovenamed, in the event of their arrest or surrender before the Court below within six weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial



Magistrate, Buxar in connection with Buxar (Muffasil) PS Case
No. 186 of 2019, subject to the condition laid down under
Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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