

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85137 of 2023

Arising Out of PS. Case No.-146 Year-2022 Thana- ABADPUR District- Katihar

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1. Safiulla Ansari @ Rabi S/O Husen Ansari R/O- Wari Bishanpur, Ps. Harishchandrapur, Distt. Malda (W.B.)
 2. Md. Mametul @ Shawaj @ Sahbaj S/O Ayub Alam R/O- Wari Bishanpur, Ps. Harishchandrapur, Distt. Malda (W.B.)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh

For the Opposite Party/s : Mr. Nagendra Prasad

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 18-01-2024 Heard Mr. Sanjeev Kumar Singh, learned counsel

appearing on behalf of the petitioners and learned Additional

Public Prosecutor for the State.

2. The petitioners apprehend their arrest in connection

with Abadpur P.S. Case No. 146 of 2022, registered for the

offences punishable under Sections 302/34 of the Indian Penal

Code.

3. Allegedly the informant got information that his

mother Barnali Roy @ Alpana Roy has been killed by some

unknown person.

4. It is submitted on behalf of the petitioners that the

FIR has been instituted against unknown persons as the mother



of the informant was residing alone in the house after the death of the father of the informant. He further submits that the name of the petitioner has transpired during course of investigation only on the basis of call details between the apprehended persons and the petitioners, save and except the call details, there is no other material available on record. He lastly submits that even the post-mortem report does not disclose that the deceased was subjected to any assault or injury and the cause of death is still uncertain and thus, the viscera was preserved and sent for forensic examination.

5. On the other hand, learned counsel for the State opposes the bail application and submits that from the impugned order it appears that the process for proclamation under Section 82 Cr.P.C. and attachment of property under Section 83 Cr.P.C. have already been issued against these petitioners and as such the present application is not maintainable.

6. Having heard the submissions advanced on behalf of the parties and taking note of the fact that the process has already been issued under Sections 82 and 83 Cr.P.C. as also in light of the mandate of the Apex Court in the case of *Lavesh Vs. State (NCT of Delhi), (2012) 8 SCC 730*; further, reiterated in *State of M.P. Vs. Padeep Sharma, (2014) 2 SCC 171* and *Prem*



Shankar Prasad Vs. State of Bihar & another, (2022) 4 SCC 516, this Court is not persuaded to accede the prayer of the petitioner for anticipatory bail.

7. Accordingly, the prayer for bail of the petitioner is rejected.

8. However, the petitioners are at liberty to surrender before the court below and pray for regular bail. In case the petitioners surrender and pray for regular bail, preferably within a period of four weeks, their application shall be considered by the court below without being prejudiced by the order of this Court and shall be disposed of expeditiously without any delay.

(Harish Kumar, J)

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