

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25336 of 2014

Arising Out of PS.Case No. -76 Year- 2013 Thana -CHAKAMHESI District- SAMASTIPUR

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Shiv Kumar Das @ Siv Kumar Das Son of Sri Ramashish Das Resident of
Village - Basuari, P.S.- Chak Mehshi, District - Samastipur

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Devendra Kumar Singh, Advocate

For the Opposite Party/s : Mr. Rajendra Pd. Nat, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

3 12-08-2015 Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner apprehends his arrest for the offences
alleged under Sections 302, 201 and 34 IPC registered in connection
with Chak Mehshi P.S. Case No. 76 of 2013.

3. It is submitted that the petitioner has been falsely
implicated and he has not even been named in the FIR. It is significant
that the informant Mukesh Kumar Trivedi being the uncle of the
deceased in his fardbeyan has categorically claimed that the deceased
had died by consuming poison and also there was no mark or injury on
his body. After almost 13 months thereafter he has changed his stand in
his deposition for implicating the petitioner and one Tilak Raj @ Tilak
Raj Mishra. It is further submitted that the father of the deceased has
also filed Complaint Case No. 504 of 2013 at Muzaffarpur when the
body of the deceased was recovered in the jurisdiction of Chak Mehshi
Police Station, District Samastipur and that too after a lapse of about

three weeks after the date of occurrence with an intention to falsely implicate the petitioner. It is further submitted that there is no substantive materials to connect the petitioner with the offence alleged.

4. Learned APP appears and opposes the application for anticipatory bail relying on the statements of several witnesses recorded therein in which the petitioner along with Tilak Raj @ Tilak Raj Mishra are said to have been seen with the deceased prior to the occurrence. Learned APP however, unable to show from the case diary that any of the witnesses examined are independent witnesses, all of whom appear to be family members of the deceased.

5. Having regard to the entirety of the facts and circumstances of the case, the provisional anticipatory bail granted to the petitioner by order dated 07.11.2014 pending in the Court of learned Chief Judicial Magistrate, Samastipur in connection with Chak Mehsi P.S. Case No. 76 of 2013 is hereby confirmed subject to the following further conditions:

(i) The petitioner shall cooperate with the investigation and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(ii) The petitioner shall remain physically present as and when required during trial and in the event of failure on two consecutive dates, his bail bond shall be liable to be cancelled by the learned Court concerned.

(Vikash Jain, J)

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