

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25080 of 2015

Arising Out of PS.Case No. -332 Year- 2014 Thana -JAMUI District- JAMUI

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Chiku Singh @ Binod Singh Son of Surendra Narayan Singh Resident of
Village - Bihari, P.S. + District Jamui.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Verma, Advocate.

For the Opposite Party/s : Mr. Ram Anurag Singh (APP)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 25-08-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation for the offence under Sections 120B, 201 and 302 of the Indian Penal Code and the fact that the petitioner's complicity has surfaced not only named by one person of last seen with the deceased but the witnesses also in course of investigation have named the petitioner to have accompanied the deceased, this Court will not be impressed either with the defence of the petitioner that he was seen near Ajanta Press and the dead body was recovered from the place near Collectorate. The close proximity of the aforesaid two places, apart, the fact of the petitioner either being seen last with the deceased and the recovery of the dead body of deceased on the same day by itself make the theory of last seen applicable in the case of the petitioner.

Learned counsel for the petitioner, then, submits that co-accused Vivek Kumar @ Vikky Kumar @ Vikky who too was seen

with the deceased and in fact also named in the F.I.R., has been granted anticipatory bail by this Court vide order dated 09.07.2015 in Cr. Misc. No. 22524 of 2015.

Normally, such a ground was itself good enough for grant of privilege of anticipatory bail to the petitioner also but then learned counsel for the informant has tried to distinguish the case of the petitioner and the case of Vivek Kumar by firstly referring to the allegation made in the F.I.R. where the informant, sister of the deceased, had talked to the petitioner on mobile of the deceased and secondly, the motor cycle, on which the deceased was seen with the petitioner, was allegedly that of the petitioner.

Learned counsel for the petitioner, however, has sought to controvert such allegation made by the learned counsel for the informant by taking a plea that in the F.I.R., the motor cycle is said to be belonging to unknown person and not to the petitioner.

In the considered opinion of this Court, such submission could have made a sizeable difference if the petitioner had categorically asserted in the bail petition that the motor cycle seized by the police did not belong to him and in absence of such statement in this bail petition, this Court cannot brush aside the allegation of motor cycle belonging to him.

Finally, learned counsel for the petitioner also submits that the post-mortem report does not support the possibility of the deceased being done to death inasmuch as such opinion of the doctor regarding

death of the deceased can only be ascribed on account of over drinking.

In the considered opinion of this Court, if the petitioner was seen last in the company of the deceased, as is now found from the various paragraph of the case diary, it will be he, who will have to explain about the deceased's death taking place its under normal circumstances because over drinking can be both voluntarily and also forced.

In that view of the matter, this Court having found the case of the petitioner to be clearly distinguishable with the case of co-accused Vivek Kumar @ Vikky, it would not be inclined to grant privilege of anticipatory bail to the petitioner.

The prayer for anticipatory bail to the petitioner is accordingly rejected.

It however goes without saying that if the petitioner surrenders and makes his prayer for regular bail, the same shall be considered on its own merit without being influenced by anything said in this order inasmuch as observation made in this order are only for the purpose of examining the plea of grant of anticipatory bail to the petitioner.

(Mihir Kumar Jha, J)

Sujit/-

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