

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26325 of 2014

Arising Out of Samastipur PS.Case No. -82 Year- 2014 Thana -
SAMASTIPUR District- SAMASTIPUR

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1. Shami @ Pyare S/o Late Safi Ahmad Resident of Muhalla - Ganadak
Colony Quarter No. 553 (C), P.S. Samastipur Town, District - Samastipur
..... Petitioner/s

Versus

1. The State of Bihar Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bijay Bhushan Prasad

For the Opposite Party/s : Mr. Braj Kishore Prasad (APP)

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI
ORAL ORDER

7 20-03-2015 This is an application, made under Section 438 of the

Code of Criminal Procedure, seeking pre-arrest bail by the

petitioner, namely, Shami @ Pyare, in connection with Samastipur

Town P.S.Case No. 82 of 2014 under Sections 302/34 IPC.

Perused the above application, materials available in the

case diary and materials on record including a copy of the order,

dated 17.05.2014, passed, in A.B.P. No. 2354 of 2014, by the

learned Sessions Judge, Samastipur, rejecting the said application

for pre-arrest bail.

The viscera report of the deceased (Md. Raju) has been

sent to this Court by the Director, Forensic Science Laboratory,

Patna, in a sealed cover. The sealed packet was opened in the

Court and the viscera report is perused.

Heard Mr. Bijay Bhushan Prasad, learned counsel for the

petitioner, and Mr. Braj Kishore Prasad, learned APP, appearing

for the State.

The High Court, while exercising its powers under Section 438 Cr.P.C., stands on the same footing as does a Sessions Judge inasmuch as a High Court and Sessions Judge have coordinate jurisdiction, while exercising power under Section 438 Cr.P.C.

Considering the fact that perusal of the materials on record reveals sufficient incriminating materials against the petitioner and also indicates that custodial interrogation is necessary in order to carry out effective investigation, this Court is of the view that in the facts and attending circumstances of the present case, the petitioner has not been able to make out any case calling for giving him benefit of pre-arrest bail.

In view of the above and in the interest of justice, the prayer for pre-arrest bail is hereby rejected.

Let the viscera report of the deceased be returned, in a sealed cover, to the office of the Director, Forensic Science Laboratory, Patna, for doing the needful in accordance with law.

Registry is hereby directed to take necessary steps in this regard.

(I. A. Ansari, J)

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