

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No.943 of 2015**

Shyam Bihari @ Shakti Yadav S/o Rama Shankar Yadav, Aged About 28
Years R/o Village Karahiyakhanda, Tahsil Baikunthpur, District Koriya (CG)

---- **Petitioner****Versus**

State Of Chhattisgarh Through : Police Station Patna, District - Koriya (Chhattisgarh)

---- **Respondent**

For Petitioner	:	Shri A. K. Shukla, Advocate
For Respondent/State:		Shri Ashok Swarnkar, Panel lawyer

Order On Board**05/10/2015**

The applicant has preferred this application under Section 438 of Cr.P.C., apprehending his arrest in connection with Crime No.50/2015, registered by the Police Station Patna, District Koriya for alleged commission of offence under Section 304 of IPC and Section 135 of Electricity Act, 2003.

2. Case of the prosecution is that the applicant was stretching live electricity wire, which fell down and came in contact with one Kamesh, who was traveling on a motorcycle, later on, Kamesh died due to electrocution.

3. Learned counsel for the applicant submits that the entire circumstances of the case only makes out a case under Section 304-A of the IPC against the applicant and not a case of Section 304 of IPC.

4. On the other hand, learned State counsel submits that it would be a case of offence under Section 304 of IPC because the act of stretching wire from live electricity line to another point by a person, who is not expert electrician, is not merely rash and negligent act, but the act, which the person doing it, has knowledge that it may cause death.

5. Taking into consideration the submission of learned counsel for the parties, circumstances of the case and that death was caused due to fall of electricity wire on

a passing passenger, the application is allowed.

6. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on furnishing a personal bond for a sum of Rs.20,000/ with one local surety in the like sum to the satisfaction of the arresting officer, on the following conditions that:

- (I) he shall make himself available for interrogation by a police officer as and when required;
- (ii) he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer, *and*
- (iii) he shall cooperate with the investigation as and when he is called.

Sd/-
Manindra Mohan Shrivastava
Judge