

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 44171 of 2016

Arising Out of PS.Case No. -298 Year- 2015 Thana -BANIYAPUR District- SARAN

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Afsar Ali Son of Md. Hamid Resident of village- Hansrajpur, P.S.-
Baniyapur, District- Saran at Chapra.

.... Petitioner

Versus

1. The State of Bihar
2. Shameem Iqbal Son of Abdul Rasid Alam Resident of village- Bela, P.S.-
Daryapur, District- Saran at Chapra

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Jeetendra Narayan

For the Opposite Party/s : Smt. Asha Devi

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3. 17-11-2016 Heard Sri Jeetendra Narayan, learned counsel for the
petitioner and Smt. Asha Devi, learned Addl. Public Prosecutor.

The petitioner, husband of the deceased, has
approached this Court, with a prayer to grant anticipatory bail in
Baniyapur P.S. Case No. 298 of 2015 registered for the offence
under Sections 304(B), 201 and 498(A) of the Indian Penal Code.

It was submitted by learned counsel for the petitioner
that the sister of informant was married with the petitioner in the
year 2008 and from the wedlock, she got two children.
Subsequently, she developed some ailment, for which, she was
provided proper treatment and during treatment, she died. By way
of referring to order dated 09-08-2016, whereby, the prayer for



grant of anticipatory bail of this petitioner was rejected, he submits that even the learned court below had summoned the case diary and noticed that some of the witnesses had corroborated that the deceased Nikhat Praveen, due to ailment, during course of treatment died, however; some of the witnesses, including the informant and his family members, have stated showing involvement of the petitioner. He submits that some of the accused persons have already been extended the privilege of anticipatory bail, vide Cr. Misc. No. 21002 of 2016. He has argued that only because of the fact that petitioner was the husband of the deceased, his prayer for grant of anticipatory bail has been refused.

Learned Addl. Public Prosecutor has opposed the prayer for extending the privilege of anticipatory bail to the petitioner on the ground that the petitioner was the husband of the deceased.

However, after going through the materials on record, particularly the order, whereby prayer for anticipatory bail of petitioner was rejected, it is evident that some of the witnesses have categorically stated that she was being treated and during treatment she died. Before the court below as well as before this Court, the petitioner has brought on record number of medical

certificates, vide Annexure 2 series to show that the sister of the informant was provided full medical facility and subsequently, she died.

In view of the facts and circumstances, particularly the fact that during investigation at least some of the witnesses have corroborated the stand of the petitioner that deceased died during treatment as well as the fact that some of the accused have been granted privilege of anticipatory bail, only on the ground that petitioner was husband, he may not be denied the privilege of anticipatory bail.

Accordingly, in the event of their arrest or surrender within a period of six weeks from today, let the petitioner, namely; Afsar Ali be enlarged on bail on furnishing bail-bond of **Rs. 10,000/-** (ten thousand) with two sureties of the like amount each to the satisfaction of Sri R.K.Yadav, Judicial Magistrate 1st Class, Saran at Chapra in connection with Baniyapur P.S. Case No. 298 of 2015, subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Rakesh Kumar, J.)

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