

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1377 of 2015

- Jitendra Kumar Mishra S/o Ramlakhan Mishra Aged About 38 Years occupation Service, R/o Village Khairi, P.S. Patna, Civil & Rev. Distt. Koriya, Chhattisgarh. --- **Petitioner**

Versus

- State of Chhattisgarh through the Police Chowki Pandavpara, P.S. Patna, Civil & Rev. Distt. Koriya, Chhattisgarh. ---**Respondent**

For the applicant	:	Mr. Ashok Shukla, Advocate
For the Respondent	:	Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

04.02.2016

1. Apprehending arrest in connection with Crime No. 50 of 2015 registered at P.S. Patna, District Koriya (C.G) for the offence punishable under Section 304 IPC and Section 135 of the Electricity Act, 2003, the applicant has filed this application seeking grant of anticipatory bail u/s 438 of the Code of Criminal Procedure.
2. As per the prosecution case, the applicant who was working as Manager in Paddy Procure Center has issued a cheque on behalf of the Society for making payment to procure electricity in Girjapur Paddy Procure Center and while the live wire was being stretched by the co-accused, it fell down on the road and at that time the deceased who was going on a motorcycle came in contact with the live electric wire and due to electrocution, he died.
3. Learned counsel for the applicant submits that no nexus of applicant with the commission of offence can be established as he was Manager of Paddy Procure Center. He further

submits that similarly placed co-accused Shyam Bihari @ Shakti Yadav has been enlarged on bail by the coordinate Bench of this Court by order dated 05.10.2015 passed in MCRCA No.943 of 2015, therefore, on the ground of parity he may be enlarged on anticipatory bail.

4. Per contra, learned State Counsel vehemently opposes the bail application and submits that under the instructions of the applicant the live wire was stretched by co-accused and no sign of danger or barricades on the road was placed as a precaution and the live wire fell down on the road and at that time the deceased who was passing through the area on his Motorcycle came in contact with the live wire and fell down and later he died due to head injury.
5. I have perused the case diary and FIR statements.
6. Perusal of the FIR would show that the primary allegations are attributed to the other persons and the applicant has not been named in the FIR. Subsequently, the applicant is being inculpated wherein the enquiry was conducted by the Officer of the Electricity Company and not by the Police.
7. Considering the role of this applicant and the way in which the offence committed as also the fact that similarly placed co-accused has been granted anticipatory bail by the coordinate Bench of this Court in MCRCA No.943/2015 by order dated 05.10.2015, I am inclined to enlarge the applicant on anticipatory bail.
8. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicant he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the officer arresting him or the concerned Investigating Officer. The applicant shall also

abide by the following conditions :-

- (i) that he shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that 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/her from disclosing such facts to the Court or any police officer;
- (iii) that he shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Cc as per rules.

Sd/-
GOUTAM BHADURI
JUDGE

Rao