

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31559 of 2018

Arising Out of PS. Case No.-872 Year-2016 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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Anil Ray @ Anil Kumar Ray son of Bhagdev Ray R/o Village Chandpur
Dhamaun, P.S. Patori, Distt. Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Shatrudhan Rai son of Sukhdeo Rai r/o village Chandpur Dhamauni, P.S.
Patori, Distt. Samastipur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar Singh Mr. Prabhat Kumar Singh
For the Opposite Party/s	:	Mr. Indra Kumar Singh
For the Informant	:	Mr. Dharendra Kumar Mr. Amrit Anunay

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

- 3 28-06-2018 A counter affidavit has been filed on behalf of
informant/opposite party no. 2 during the course of
argument.

Let it be taken on record.

Heard the learned counsel for the petitioner,
informant and the State.

The petitioner seeks bail in anticipation of his
arrest in connection with C.R. No. 872 of 2016 in which
cognizance has been taken under Sections 302/34 of the
Indian Penal Code.

The records reveal that earlier a police case was
lodged by the informant with respect to the murder of
his son. The aforesaid case, on investigation, was found



to be false and hence final report has also been submitted. However, the protest petition was treated as complaint and the learned court below, taking into account the findings in the postmortem report about injuries on the body of the deceased, took cognizance of the offence under Section 302/34 of the I.P.C.

It may be noted here that the investigation had revealed that the deceased died of electric shock.

While opposing the prayer for anticipatory bail of the petitioner, it was submitted on behalf of the informant that processes under Sections 82 and 83 of the Cr.P.C. have been initiated against the petitioner and thus he cannot be granted the privilege of anticipatory bail. The aforesaid submission did not find favour with the bench which had earlier heard this matter and the learned counsel for the informant was directed to file his counter affidavit.

Pursuant to the aforesaid order dated 12.06.2018 referred to above, the counter affidavit has been filed. The only ground which has been taken by the informant in the present case is that the processes under Sections 82 and 83 have been initiated against the petitioner and on the same ground, the prayer for anticipatory bail of one of the accused persons with exactly similar allegation, has been rejected by a bench



of this Court vide order dated 26.04.2018 passed in Cr. Misc. No. 20892 of 2018.

Mr. Prabhat Kumar Singh, learned counsel for the petitioner, however has submitted that the order rejecting the anticipatory bail of a co-accused person will not be binding. He further submits that in the present case, the investigation was completed and the accusation was found to be false. The prosecution of the petitioner is only based on the protest complaint petition.

Be that as it may, regard being had to the fact that the prayer for anticipatory bail of one of the similarly situated accused person has been rejected, this Court does not wish to take a different view of the matter, for the respect of the order passed by a coordinate bench.

In any view of the matter, if the petitioner surrender before the court below and prays for bail, the court below shall look into all aspects specially that in the investigation in the police case earlier the case was found to be false and that the occurrence has taken place long time ago. The court below shall, in that event, be not prejudiced by the fact that the present anticipatory bail petition has not been entertained by this Court.

With the aforesaid observation and direction,



the petition is disposed of.

(Ashutosh Kumar, J)

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