

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.64116 of 2018

Arising Out of PS. Case No.-205 Year-2018 Thana- BARH District- Patna

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Doman Mahto Son of Rajeshwar Mahto @ Rajo Mahto Resident of Village-
Jalgovind, P.S. Barh Distt.-Patna (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar

For the Opposite Party/s : Mr. Sri Satyadev Prasad Singh Yadav

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 14-12-2018 Heard the learned counsel for the petitioner and
the State.

The petitioner seeks bail in anticipation of his arrest in connection with Barh P.S. Case No. 205 of 2018 dated 24.06.2018 instituted for the offences under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

The brother-in-law of the deceased has alleged that while construction work was being done at the instance of the deceased at a site in village Dahor, the petitioners and few others came and demanded protection money. When that was not given, one of the accused persons fired from his weapon. The informant, for fear of his life, ran away. However he heard another shot being fired by some of the accused persons. Later,



when the informant returned, he found his brother-in-law lying injured in a pool of blood. The injured was taken to hospital but he succumbed to the injuries.

Learned counsel appearing for the petitioner has submitted that though the petitioner has been named in the FIR by the informant, who is an eye witness to the occurrence, but he is not alleged to have opened fire at the deceased. In fact, no overt act has been attributed to him.

Such a ground ought not and cannot be taken into consideration for grant of anticipatory bail in a case of this kind where a person has been murdered for not paying protection money at the construction site.

The learned counsel for the petitioner thereafter drew the attention of this court to an order passed by a bench of this court in Cr. Misc. No. 44138 of 2018 wherein one of the accused persons who is similarly situated, meaning thereby that he also was named in the FIR but was not alleged to have opened fire, has been granted bail in anticipation of his arrest by order dated 27.07.2018.

However, I am not inclined to grant anticipatory bail to the petitioner.

The prayer for bail is rejected.

However, in case the petitioner surrenders and



prays for regular bail within a period of four weeks, the court below shall take into account that similarly situated person has been granted anticipatory bail and that no overt act has been attributed against him.

With the aforesaid observations, this petition is disposed off.

(Ashutosh Kumar, J)

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