

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33759 of 2018

Arising Out of PS. Case No.-38 Year-2018 Thana- KARJA District- Muzaffarpur

Md. Khurshid S/o Md. Zahir, R/o Vill.- Makdumpur, Kodariya, P.S.- Karja,
District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok

For the Opposite Party/s : Mr. Sri Umeshnand Pandit

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 09-07-2018 Heard the learned counsel for the petitioner and
the State.

The petitioner seeks bail in anticipation of his arrest in connection with Karja P.S. Case No. 38 of 2018 dated 23.02.2018 instituted for the offence under Section 304/34 of the Indian Penal Code.

The son of the informant was electrocuted because of the petitioner putting up a live electric wire to protect his field from the stray animals. Maize crops were standing in the field of the petitioner.

Learned counsel for the petitioner has submitted that there was no intention to hurt anybody and the petitioner had put up a fence for the safety of the crops against the animals straying in to his field. He had taken all precautions of not covering the road, but



yet a mishap had taken place for which he had no intention. He further submits that at best, it would be a case under Section 304-A of the Indian Penal Code and not under Section 304 of the IPC.

Learned counsel appearing for the informant however has opposed the prayer for anticipatory bail and has submitted that the petitioner was told a number of times that this putting up an electric fence could be dangerous for the people of the locality; but still, he did not pay heed to the advice of the neighbours.

In that view of the matter, it could always be said that he intended the act and was aware that it could have caused the death of any person.

However, considering the fact that the son of the informant has died, the petitioner had agreed to pay an amount of Rs. 35,000/- as a token of his expiation for having done something which has resulted in the loss of a young life. The aforesaid payment is but without prejudice to his rights and contentions later. The aforesaid amount shall be paid to the informant within a period of one week from today.

In the event of the petitioner paying the aforesaid amount within the stipulated period and of furnishing an affidavit regarding payment of same, he above named, is directed to be released on bail, in the



event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Chief Judicial Magistrate (West), Muzaffarpur in connection with Karja P.S. Case No. 38 of 2018, subject to the conditions as laid down under Section 438(2) Cr.P.C.

In case the informant refuses to accept the money, the aforesaid money would be deposited by the petitioner in the court below.

(Ashutosh Kumar, J)

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