

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7496 of 2019

Arising Out of PS. Case No.-20 Year-2018 Thana- BHAIKAVSHTHAN District- Madhubani

AMRESH YADAV late Ramswarath Yadav @ Ramswarath Yadav Resident of
Village- Khutwara, P.S. -Sadar Darbhanga District- Darbhanga.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Manish Kumar No 13

For the Opposite Party/s : Mr.Anil Kumar

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

2 08-02-2019

Heard learned counsel for the parties.

This application for anticipatory bail arises out of Bhairabsthan P.S. Case No. 20 of 2018 for the offence under Sections 147, 148, 149, 341, 326, 302 and 120(B) of the Indian Penal Code.

There is allegation that at the instance of co-accused Shidhari Yadav, the other co-accused persons including this petitioner assaulted the informant's husband leading to his death. Learned counsel for the petitioner has submitted that it is evident from the First Information Report that because of the land dispute in the family, the occurrence had taken place. The petitioner has been implicated only because he is the brother-in-law of the co-accused Binod Yadav, who has interest in the joint family property. He has also submitted that Shiv Lal Yadav has been granted anticipatory bail by this Court by order dated



12.12.2018 passed in Cr. Misc. No. 64171 of 2018.

before I consider the aforesaid submission advanced on behalf of the petitioner, it has to be kept in mind that in the light of Supreme Court's decision in case of *Jai Prakash Singh vs. The State of Bihar and Another* reported in 2012(4) SCC 379, anticipatory bail in a case punishable under Section 302 of the Indian Penal Code is to be granted only in exceptional circumstance. The case of the co-accused, who has been granted anticipatory bail by this Court is clearly distinguishable. Whereas there is allegation against him is of instigating others, the allegations against this petitioner and others are concerned is of their active participation in making assault on the deceased. This application is accordingly rejected.

The petitioner is directed to surrender before the Court below within a period of four weeks from today and seek regular bail, if so advised. If he does so, his application for regular bail shall be considered by the learned Court below on its own merit without being prejudiced by rejection of present application for grant of anticipatory bail.

(Chakradhari Sharan Singh, J)

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