

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13350 of 2019

Arising Out of PS. Case No.-587 Year-2018 Thana- SHERGHATI District- Gaya

PARDEEP YADAV @ PARDEEP KUMAR YADAV @ PRADEEP KUMAR
Son of Ram Sevak Yadav Resident of Village- Dovi, Police Station- Dovi,
District- Gaya.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Jha

For the Opposite Party/s : Mr.Shailendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 10-07-2019 Heard learned Counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises out of Sherghati (Dhobi) Police Station Case No. 587 of 2018, disclosing offences under Section 302/34 of the Indian Penal Code.

The prosecution case, as per the First Information Report, is that on 19.10.2018, the informant was informed by the villagers that the dead body of his son was lying in front of his house. It has further been stated that the son of the informant had gone in the company of Rakesh Kumar and Santosh Kumar by motorcycle and till night, he did not return and in the morning, his dead body was thrown in front of the house of the



informant.

The petitioner is not named in the First Information Report.

Learned Counsel for the petitioner submits that on the basis of CCTV footage and suspicion that the petitioner was found moving between the house of the accused Santosh Kumar and the informant and that a thela was detected, but it was not clear that any dead body was being carried upon that thela, the petitioner's name has been dragged in this case. He further submits that the petitioner has been implicated in this case merely on suspicion.

Learned Additional Public Prosecutor submits that the petitioner was seen in the village of the deceased and his movement, between the house of the accused Santosh Kumar and the informant, was suspicious. He further submits that co-accused Santosh Kumar has also taken the name of the petitioner and the petitioner was seen in the village as per the CCTV footage. He further submits that process under Section 82 of the Code of Criminal Procedure, 1973, has already been issued against the petitioner.

He further submits that in view of the law laid down by the Supreme Court, in the cases of **Lavesh v. State (NCT of**



Delhi), reported in **(2012) 8 SCC 730** and **State of Madhya Pradesh v. Pradeep Sharma**, reported in **(2014) 2 SCC 171**, the anticipatory bail application, after issuance of process under Sections 82 of the Code of Criminal Procedure, 1973, is not maintainable.

After having heard learned Counsel for the parties and taking into consideration the facts that confessional statement of the co-accused Santosh Kumar has further been corroborated by the fact that the petitioner was sighted near the house of accused Santosh Kumar, who is named accused in the First Information Report and further that processes under Sections 82-83 of the Code of Criminal Procedure, 1973, have already been issued and in view of the judgment of the Supreme Court, mentioned above, I am not inclined to exercise my discretion.

This anticipatory bail application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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