

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.31444 of 2019**

Arising Out of PS. Case No.-373 Year-2018 Thana- SITAMARHI District- Sitamarhi

ARVIND KUMAR PRASAD, Son of Late Heeralal Prasad, Resident of  
Village- Kamtaul, P.S.- Kamtaul and District- Darbhanga.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

**Appearance :**

|                            |                                                                                                             |
|----------------------------|-------------------------------------------------------------------------------------------------------------|
| For the Petitioner/s :     | Mr. D. K. Sinha, Sr. Adv.<br>Mr. Girish Chandra Jha                                                         |
| For the Opposite Party/s : | Mr. Akshay Lal Pandit                                                                                       |
| For the son of deceased :  | Mr. Rajendra Narayan, Sr. Adv.<br>Dr. Rajesh Kumar Singh<br>Mr. Anant Kumar Bhaskar<br>Mr. Sanjay Kumar Jha |

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

6      28-08-2019                      Heard learned Senior Counsel for the petitioner,  
  
learned Senior Counsel appearing on behalf of the son of the  
  
deceased and learned Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises  
out of Sitamarhi Police Station Case No. 373 of 2018, disclosing  
offences under Sections 302/120B/34 of the Indian Penal Code.

The prosecution story, as stated in the First  
Information Report based on the statement of Sub-Inspector of  
Police, Ashok Kumar Singh, posted in the Sitamarhi Police  
Station, is that the police, on 09.04.2018, received an  
information that two persons were lying dead in Lichi Bagaan  
and on such information, the police proceeded towards the place



of occurrence, which was the house of Late Bharat Prasad and found the dead bodies of Bharat Prasad and his wife Mandvi Prasad in the drawing hall of the house of Bharat Prasad . At the time of lodging of the First Information Report, the informant could gathered that the deceased persons, who were husband and wife, were rich persons and they have got only one son, who is working as a doctor in Australia.

Mr. D. K. Sinha, learned Senior Counsel, appearing on behalf of the petitioner, submits that the petitioner is innocent and has falsely been implicated in this case on the basis of suspicion raised by the son of deceased Bharat Prasad, who is residing in Australia and worked as a doctor and on the basis of e-mail sent by him, after a lapse of about 22 days, to the Superintendent of Police, Sitamarhi. The only suspicion, which has been raised against this petitioner in the e-mail was that the petitioner had purchased a piece of land from the deceased Bharat Prasad a few months back prior to the date of occurrence. He further submits that the petitioner is not named in the First Information Report and in course of investigation, the police arrested the bodyguard and driver of deceased Bharat Prasad, namely, Mukesh Kumar Dwivedi and Minto Pal on 09.04.2018 and their confessional statements were recorded by



the police on 10.04.2018. In the confessional statement, Minto Pal, the driver of deceased Bharat Prasad, has confessed that Chandan Singh, Rajesh Paswan, Kanhai Thakur and Mukesh Kumar Dwivedi were involved in the alleged killing of deceased Bharat Prasad and his wife, Mandvi Prasad on the date of occurrence. Further the bodyguard of deceased Bharat Prasad confessed that six persons, namely, Shatrughan Prasad, Chandan Singh, Rajesh Paswan, Kanhai Thakur, Devendra Ram and Santosh, were involved in the alleged killing of the deceased Bharat Prasad and his wife. He further submits that the name of the petitioner was not disclosed at any point of time by the arrested co-accused persons or their accomplices. He further submits that merely on the basis of e-mail sent by the son of deceased Bharat Prasad from Australia, the petitioner has been dragged in this case and the only material, which has come against the petitioner, is that he had purchased a piece of land from deceased Bharat Prasad on 16.02.2018.

On the other hand, Mr. Rajendra Narayan, learned Senior Counsel appearing for the son of the deceased Bharat Prasad, namely, Dr. Puskal Prasad, vehemently opposes the prayer for anticipatory bail and submits that the son of the deceased Bharat Prasad, in his e-mail, dated 01.05.2018, has



categorically raised suspicion against the petitioner that he had purchased a piece of land from his father just prior to the date of occurrence and his complicity in the crime cannot be ruled out. He further submits that on the basis of secret information, it has come to light that the valuation of the piece of land, which was sold by the deceased Bharat Prasad in favour of the petitioner, was above Rs. 90,00,000/-, but the sale deed was executed on the lesser value with the promise made by the petitioner that he would be paying the rest amount to the deceased Bharat Prasad after sometime and in order to grab the money of the deceased Bharat Prasad, he entered into a conspiracy with other accused persons to kill the deceased Bharat Prasad and his wife.

From Annexure-E to the counter affidavit filed on behalf of the son of the deceased Bharat Prasad, which is the web copy of sale deed details of the Department of Registration, Excise and Prohibition, Government of Bihar, it transpires that market value of the land, in question, has been described therein as Rs. 30,00,000/-; whereas the final value of the sale deed entered into between the deceased Bharat Prasad and the petitioner has been mentioned as Rs. 21,00,000/- (page 22). It further transpires from Annexure-E (page 23), which is also the web copy of deed details of another piece of land allegedly



transacted between the deceased Bharat Prasad and the petitioner, that the market value has been shown as Rs. 30,00,000/-; whereas final value fixed between the deceased Bharat Prasad and the petitioner has been mentioned as Rs. 40,00,000/-. He further submits that the police, on the basis of secret information, has found the case true against the petitioner. He, referring to paragraph 6 of the second supplementary case diary, which is the statement recorded by the police, based upon the secret information received by the police, submits that Shatrughan Prasad, who is the brother of the deceased Bharat Prasad, was also involved in the alleged killing and both, Shatrughan Prasad and this petitioner, were having good terms inasmuch as just before the date of occurrence, i.e. on 24.02.2018, the wife of this petitioner had purchased two pieces of land from Shatrughan Prasad also.

On the other hand, learned Additional Public Prosecutor, relying on the police paper/case diary and referring to paragraph 17 of the supplementary case diary, submits that the statement of the son of the deceased Bharat Prasad, Dr. Puskal Prasad, has also been recorded by the police, in which he has categorically stated that just prior to the date of occurrence, he had talked on telephone with his father from Australia, in



which his father had raised suspicion that he was having threat of his life from his brother, Shatrughan Prasad and Chandan Singh. He further submits that Kanhai Thakur and Rajesh Paswan were also known to the deceased Bharat Prasad, who were involved in the murder of wife of Shatrughan Prasad, namely, Anita, and these two persons had entered into the house of deceased Bharat Prasad on the date of occurrence taking advantage of their acquaintance with the deceased Bharat Prasad. He, referring to paragraph 22 of the case diary, which is the call details report of the mobile of the petitioner, collected by the police, submits that it has come that from 01.04.2018 to 13.04.2018, the location of the mobile of the petitioner was at Darbhanga and no details has been found by the police that the petitioner was having any conversation with any of the arrested accused persons or other persons involved in the crime.

Learned Senior Counsel for the petitioner, in reply, submits that in the entire investigation and the e-mail sent by the son of the deceased Bharat Prasad, except that the petitioner had purchased piece of land from the deceased Bharat Prasad prior to the date of occurrence, no material, much less any cogent materiel, has come against the petitioner to connect him with the alleged killing of the deceased Bharat Prasad and his wife. He



further submits that merely because the petitioner had purchased a piece of land from the deceased Bharat Prasad and that too after paying the entire consideration amount, as per the Government valuation or as agreed between the vendor and the vendee and only on that basis, the petitioner cannot be connected with the commission of the present offence on the basis of some secret information received by the police. He submits that the assessment of the valuation of the land done by the son of the deceased Bharat Prasad, as stated in the counter affidavit, as Rs. 90,00,000/- is only an imagination inasmuch as from the own documents of the son of the deceased Bharat Prasad in the counter affidavit (Annexure-E series), it would be evident that the market value of the land, in question, being assessed by the Department of Registration also, which is Rs. 30,00,000/- and Rs. 40,00,000/- respectively.

Learned Additional Public Prosecutor, relying on paragraph 14 of the supplementary case diary, which is the statement of one Rahul Kumar, working in the Registration Office, submits that this witness has categorically stated that the valuation of the land was rightly assessed and the entire valuation of the land, as fixed in the sale deed, has been paid to the vendor and there was no dues on the part of the vendee, i.e.



the petitioner.

After having heard learned Counsel for the parties and from the materials available on record, it appears that the only material, which is coming against the petitioner, is that he had purchased a piece of land from the deceased Bharat Prasad prior to the date of occurrence, which took place on 08.04.2018 and the secret information received by the police regarding valuation of the land as Rs. 90,00,000/-, except this, there is no material, much less any material based upon the confessional statement of arrested co-accused persons, has come against the petitioner. Reliance placed by the son of the deceased Bharat Prasad on Annexures B, C and D to the counter affidavit that the anticipatory bail applications of Rajesh Paswan, Shatrughan Prasad and Chandan Singh have already been rejected by this Court, it appears that the names of the accused Rajesh Paswan and Chandan Singh were disclosed by co-accused Minto Pal, who was the driver of the deceased Bharat Prasad and was also involved in the alleged crime and in his confessional statement, disclosed the complicity of these persons in the crime and the anticipatory bail application of Shatrughan Prasad, who is the own brother of the deceased Bharat Prasad has been rejected on the ground that process under Section 82 of the Code of



Criminal Procedure, 1973 had already been initiated against him.

Considering the above, I am inclined to grant the petitioner privilege of anticipatory bail.

This application is, accordingly, allowed.

Let the petitioner, Arvind Kumar Prasad, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi, in connection with Sitamarhi Police Station Case No. 373 of 2018, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner shall present himself before the police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bond shall be liable to be cancelled.

**(Anil Kumar Sinha, J.)**

Prabhakar Anand/-

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