

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44429 of 2019**

Arising Out of PS. Case No.-48 Year-2014 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

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SHASHI NATH JHA @ SHASHI JHA, Son of Late Rajendra Jha, Resident of
Village- Udapatti, Police Station- Musarigharari, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Sinha
For the Opposite Party/s : Mrs. Renu Kumari

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER**

3 17-09-2019 Heard Mr. P.K. Shahi, learned Sr. Counsel for the

petitioner and Mr. J.N. Thakur, learned APP for the State.

The petitioner has renewed his prayer for anticipatory bail
in a case registered for the offences punishable under Sections
302 and 201 of the IPC and Section 25 of the Arms Act.

The prosecution case, as per the fardbeyan of Dhauli Devi,
recorded by Rajeev Roshan, being S.I., of Muffasil Police
Station on 01.02.2014 at 7.45 A.M., is to the effect that on
31.01.2014 at about 4.00 P.M., the informant along with her
husband were sitting at their door, in the meantime, co-accused
Rajan Kumar, Sanjeev Kumar and Bhola Jha came and took the
husband of the informant, late Ram Vilash Rai to Musrigharari
market. After some time, the nephew of the informant, namely,



Dharmendra Rai came and conveyed the informant that he saw the husband of the informant at Musridharari market in the company of co-accused Rajan Kumar Jha, Birendra Kumar, Sanjeev Kumar Jha, Bhola Jha, Shashi Jha (the petitioner) and Ajay Jha. Thereafter search was made by the informant and on the next day in the morning, the dead body of the husband of the informant was recovered from an orchard situated in Village Laguniya Raghukanth. Consequently, the FIR was lodged against six accused persons including the petitioner.

Learned counsel for the petitioner submits that the accusation is based on circumstantial evidence of last seen and only on the basis of suspicion, the petitioner has been roped in the present case. Admittedly, the informant's husband did not left the house in the company of the petitioner, however subsequently, the petitioner and other co-accused persons were seen in the company of the deceased. It is further submitted that though, earlier anticipatory bail application of the petitioner was disposed of with observation that there are grounds for consideration of regular bail as except evidence of last seen, no substantial material was collected against the petitioner during investigation. However, subsequently on conclusion of investigation, the final form has been submitted and the



petitioner has not been sent up for trial, but consequently, differing with the final form, learned SDJM, Samastipur took the cognizance under Sections 302 and 201 of the IPC and issued summons against the petitioner also. The order of cognizance was challenged in Cr. Revision no. 624 of 2016, wherein initially further proceeding with regard to the petitioner before the learned Court below was stayed, but subsequently, the same was dismissed vide order dated 28.03.2019, passed by learned Additional Sessions Judge-V, Samastipur. It is further submitted that co-accused Birendra Kumar Jha, who has been chargesheeted and was also last seen in the company of the deceased, has been granted privilege of anticipatory bail by a co-ordinate bench of this Court, vide order dated 07.04.2015, passed in Cr. Misc. No. 28006 of 2014. Though, his earlier anticipatory bail application was also permitted to be withdrawn, but subsequently, on renewal of prayer, he has been granted anticipatory bail. Moreover, co-accused Ajay Kumar Singh, who was also last seen in the company of the deceased, has been granted privilege of anticipatory bail by learned Sessions Judge, Samastipur, vide order dated 22.08.2019, passed in A.B.P. No. 1713 of 2019. It is further submitted that during entire investigation, except that the petitioner and other co-



accused persons were last seen in the market along with the deceased, no evidence has been collected against the petitioner. Though, the petitioner is accused in three cases, but in all the cases, either on conclusion of investigation, he has not been sent up for trial or is on bail.

Learned APP, after going through the case diary, submits that except the evidence that the petitioner was seen in the market along with the deceased one day prior to the occurrence, nothing has been collected against the petitioner during investigation.

Considering the fact that on conclusion of investigation, the petitioner has not been sent up for trial and other co-accused persons, either similarly situated or even charge-sheeted, have been granted anticipatory bail by a Bench of this Court and by learned Court below itself, let the above named petitioner be released on anticipatory bail in the event of arrest/surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Samastipur in connection with Samastipur (Muffasil) P.S. Case No. 48 of 2014, subject to the condition as laid down under Section 438(2)



of the Cr. P.C.

However, learned Court below will be at liberty to cancel the bail bonds of the petitioner if he defaults for three consecutive occasions during trial.

(Dinesh Kumar Singh, J)

Amrendra/-

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