

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21678 of 2020

Arising Out of PS. Case No.-549 Year-2019 Thana- JAHANABAD District- Jehanabad

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ALBELA YADAV Son of Ghamandi Yadav Resident of Village-
Maharajganj, Police Station-Sigori, District-Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ambuj Nayan Chaubey
: Mr.Sanjay Kumar Singh
For the Opposite Party/s : Mr.Reena Singh (APP)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 25-09-2020 Heard learned counsel for the parties.

This application for anticipatory bail arises out of
Jehanabad (Karauna O.P.) P.S. Case No. 549 of 2019 for the
offence punishable under Sections 302, 147, 149, 379 and 506
of the Indian Penal Code.

The informant is wife of the deceased Umesh
Yadav. She has alleged that their motorcycle was stolen from
her house on 30.06.2019. An acquaintance of the deceased,
namely, Randhir Yadav, had told him that his motorcycle had
been located. Her husband had gone with Randhir Yadav and
thereafter both of them had returned back in the evening.
Allegedly, the petitioner and co-accused Uday Yadav had called



the informant's husband on phone telling him that the said Randhir Yadav was missing and if the informant's deceased husband did not reach them, they would file case against the deceased. The informant, her brother and the deceased husband, as asked by the co-accused persons, came at village Lanjo from Patna. It is alleged in the F.I.R. that the petitioner with other co-accused persons named in the F.I.R., forcibly took the informant's husband to a nearby place and brutally assaulted him. When the informant intervened, she was also assaulted. Informant's husband was so mercilessly beaten that he died next day in Patna Medical College Hospital.

Mr. Ambuj Nayan Choubey, learned counsel appearing on behalf of the petitioner has submitted that as a matter of fact prior to the institution of the present case, one Jehanabad P.S. Case No. 545 of 2019 was registered implicating the deceased Umesh Yadav as an accused for kidnapping and killing of said Randhir Yadav. He has argued that on noticing dead body of the said Randhir Yadav, when certain persons had gone to the house of the Umesh Yadav (the informant's deceased husband) to enquire about his death, Umesh Yadav had started fleeing away, whereafter he was caught by the mob and beaten up severely out of public rage. He was thereafter



taken into custody by police. He has further submitted that the informant's statement under Section 164 of the Cr.P.C. has been recorded and apparently in order to improve the case, she has claimed to be an eyewitness in her statement under Section 164 of the Cr.P.C.

Case diary has been called for, a digitized copy of which, is there on record. I have perused the statement of the informant recorded under Section 164 of the Cr.P.C. I do not find any substance in submission made on behalf of the petitioner that the informant, for the first time, claimed to be an eyewitness in her statement under Section 164 of the Cr.P.C. In the F.I.R. also, the informant has mentioned that she was at the place of occurrence, when her husband was being beaten up and she was also assaulted, when she had attempted to intercede. It appears that in retaliation to the death of Randhir Yadav, the informant's husband was severely assaulted leading to his death.

Be that as it may, in view of the Supreme Court's decision in case of ***Jai Prakash Singh vs. State of Bihar and Others***, reported in (2012) 4 SCC 379, in my opinion, this is not an exceptional case for grant of anticipatory bail, as it involves commission of offence punishable under Section 302 of the Indian Penal Code.



This application is 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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