

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22599 of 2020

Arising Out of PS. Case No.-478 Year-2019 Thana- BIDUPUR District- Vaishali

Prakash Singh @ Prakash Kumar Singh Son of Nerandra Raj Singh Singh
Resident of Village - Madhurapur, P.S. Bidupur, District - Vaishali at Hajipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Yashraj Bardhan

For the Opposite Party/s : Mr.APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 25-08-2020 The Court proceeding has been conducted through
virtual mode.

Heard learned counsel for the petitioner and
learned APP for the State.

Since the court proceeding in physical mode is
non-functional, due to present pandemic, COVID-19, the matter
is listed with defects.

Learned counsel for the petitioner undertakes to
remove the defects within three weeks of resumption of court
proceeding in physical mode. In the eventuality of non-removal
of defects within undertaken period, the office will place the
matter before the bench.

The petitioner is apprehending arrest in a case
registered for the offence punishable under Section 302 of the
Indian Penal Code.



The prosecution case, as per the written report of Santosh Kumar dated 21.11.2019 submitted to the Station House Officer, Bidupur Police Station, is to the effect that the informant's father, Musaheb Rai was forcibly being taken by the petitioner for cleaning the drainage but as soon as the informant's father entered into drainage, the petitioner closed the lid of the drainage, as a result, the father of the informant died.

It is submitted by learned counsel for the petitioner that the informant's father was a professional drainage cleaner. It is true that he entered into the drainage but due to accumulated gas in the septic tank, he became unconscious and ultimately died. The informant subsequently retracted from the initial version and impugned order suggests that during supervision the case has been found true under Section 304 of the Indian Penal Code. A statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that there is specific accusation against the petitioner.

Considering the fact that from the accusation, it appears that the informant's father died while cleaning the septic tank, the material on record does not suggest that he received



any injury and the retracted version of the informant, coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the petitioner above named be released on provisional anticipatory bail for three months, in the event of arrest or surrender before the learned Court below within a period of 6 weeks from today, on furnishing one surety to the satisfaction of the learned Chief Judicial Magistrate, Vaishali at Hajipur in connection with Bidupur P.S. Case No. 478 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Vaishali at Hajipur in connection with Bidupur P.S. Case No. 478 of 2019, subject to



the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

The learned Court below will be at liberty to further extend the period of provisional anticipatory bail if the court proceeding in physical mode will not resume in next three months.

However, the petitioner will cooperate in the investigation. The non-cooperation in the investigation will give liberty to the learned Court below not to confirm the provisional bail of the petitioner.

Accordingly, the application stands disposed of.

(Dinesh Kumar Singh, J)

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