

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 31787 of 2020**

Arising Out of PS Case No.-144 Year-2016 Thana- MASHRAK District- Saran

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Bharat Sah, aged about 24 years, Male, Son of Basant Sah, Resident of
Village-Dumarsan, P.S.-Mashrak, District-Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyendra Rai, Advocate
For the State : Mr. Md. Arif, APP

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 03-12-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Satyendra Rai, learned counsel for the petitioner and Mr. Md. Arif, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner is in custody in connection with Mashrak PS Case No. 144 of 2016 dated 30.04.2016, instituted under Sections 302 and 120B of the Indian Penal Code.

4. The allegation against the petitioner is that he along with others had taken the brother of the informant to witness a



marriage at night and when he did not return, the informant searched and found the body and motorcycle of the petitioner.

5. Learned counsel for the petitioner submitted that the petitioner and others had gone with the deceased but had met with an accident due to which he died for which he is lodged Mashrak PS Case No. 92 of 2016, which was instituted on 19.03.2016, i.e., the next morning leading to the police recovering the body and sending it for postmortem and thereafter only, the informant after almost 9 days has filed a Complaint Case on 28.03.2019 leading to institution of the present case on 30.04.2016. Learned counsel submitted that the conduct of the informant and his family is also suspicious as the mother of the deceased has taken the sum assured from LIC showing that the deceased had died on 11.09.2015, due to pain in stomach. Learned counsel submitted that the petitioner is custody since 12.03.2020. Further, learned counsel submitted that co-accused Tinku Sah has been granted anticipatory bail by a co-ordinate Bench by order dated 02.11.2018 passed in Cr. Misc. No. 53541 of 2018.

6. Learned APP, drew the attention of the Court to order dated 26.06.2020 of the Additional Sessions Judge X, Saran in BP No. 571 of 2020, by which the prayer for bail of the petitioner was rejected and submitted that it has been noted that the petitioner



being the informant of Mashrak PS Case No. 92 of 2016, had stated that the deceased was sitting behind him on his motorcycle and fell down due to collusion with a pole and that after some time he had died and thereafter he had left the dead body at the place of occurrence and did not inform anybody and came to his house and slept and only the next morning he informed his family members and the body was found, and it has further been observed that such conduct of the petitioner where he admits that for some time the deceased was alive and still waiting for him to die and then coming to his house and sleeping and only next morning informing his family members, raises serious questions and is also indicates that the deceased could have been saved if provided emergency treatment. It was submitted that the circumstances are highly suspicious indicating that the petitioner may be involved in the death of the deceased. It was further submitted that the case of co-accused Tinku Sah cannot be compared to that of the petitioner as it was the petitioner on whose motorcycle, the deceased was travelling and the petitioner had caused the accident by hitting a pole and thereafter, he himself in the FIR had stated that the deceased had died after some time and he had returned home and slept without informing anybody.



7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on bail.

8. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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