

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83837 of 2019

Arising Out of PS. Case No.-239 Year-2017 Thana- MAHUA District- Vaishali

ARBIND KUMAR @ AMRENDRA SINGH Son of Late Ram Briksha Singh
Resident of Village - Paharpur, P.S.- Mahua, Distt.- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Ramesh Kumar Thakur
For the Opposite Party/s :	Mr.Rabindra Kumar
	Mr. Sunil Kumar

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

7 15-10-2020 Heard learned counsel for the parties.

This application for anticipatory bail arises out of Mahua P.S. Case No. 239 of 2017, disclosing the offence under Section 302 and other allied Sections of the Indian Penal Code and Section 27 of the Arms Act.

Some dispute over ownership in respect of a piece of land appears to be the apparent reason behind the occurrence. The son of the deceased is the informant, who has claimed to be an eye-witness of the occurrence. It is alleged in the FIR that a construction was being made over a piece of land where the informant's father and his other family members including the informant were present. In the meanwhile, the persons named in the FIR including the petitioner came and objected to said



construction being made. They were variously armed and asked the deceased and others to stop construction work. When the deceased claimed his title and disputed the title of the persons named in the FIR, allegedly, at the instance of co-accused Sanjit Rai, co-accused Sanjay Rai opened several fires targeting the deceased hitting in his head, face and right hand. He died on the spot. It is further alleged that others including the petitioner started firing causing injuries on the person of the informant's uncle and cousin as also the deceased.

Learned counsel appearing on behalf of the petitioner has submitted that the order giver, namely, Sanjit Rai and another co-accused Krishna Kumar Bhargaw have been granted anticipatory bail by an order of this Court dated 18.01.2018, passed in Cr. Misc. No. 57401 of 2017.

Case diary has been called for, soft copy of which is there on record. The statement of one of the injured, namely, Shankar Singh has been recorded which is there in paragraph 39 of the case diary. Claiming to be an eye-witness, he has completely supported the case of the prosecution.

I am not inclined to grant the petitioner privilege of anticipatory bail despite two of the co-accused having been granted anticipatory bail by this Court by the aforesaid order



dated 18.01.2018 for more than one reason. Firstly, the petitioners of that case are not said to be the assailant. Secondly, the case diary was not available before the co-ordinate Bench to notice the materials collected during course of investigation, as is evident from the order. Thirdly, the Supreme Court in the case of *Jai Prakash Singh vs. The State of Bihar and others*, reported in **(2012) 4 SCC 379** has ruled that in the cases making out offence punishable under Section 302 IPC, anticipatory bail should be granted in exceptional circumstance only.

For the aforesaid reasons, this application is dismissed.
Interim order dated 18.02.2020 stands vacated.

However, the petitioner is directed to surrender before the Court below within eight weeks from today and seek regular bail, if so advised. If he does so, his application for regular bail shall be considered on its own merit without being prejudiced by rejection of the present application for grant of anticipatory bail by this Court.

(Chakradhari Sharan Singh, J)

Rajesh/-

U		T	
---	--	---	--

