

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28921 of 2020**

Arising Out of PS. Case No.-385 Year-2019 Thana- SIWAN MUFFASIL District- Siwan

SHAMSHAD ALI @ SHAMSHAD MIA Son of Ajij Miya Resident of
Village - Bindusar Hameed, P.S.- Siwan Mufassil, District - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mithilesh Kumar Upadhyay, Advocate
For the Opposite Party/s : Mr. Akshay Lal Pandit, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER**

4 19-01-2021 Heard Mr. Mithilesh Kumar Upadhyay, learned
counsel for the petitioner and Mr. Akshay Lal Pandit, learned
Additional Public Prosecutor appearing for the State.

Petitioner apprehends arrest in connection with Siwan
Muffasil P.S. Case No. 385 of 2019 registered for the offences
punishable under Sections 302 and 120(B)/34 of the Indian
Penal Code, 1860.

The allegation as per the First Information Report is
that while the informant was cooking food, the petitioner along
with other co-accused persons arrived at the house of the
informant and called her son Israil and took him to cremation
ground. It has further been alleged that when the informant
along with her another son namely, Rabuddin started searching
her son, they found that all the accused persons including the



petitioner were assaulting her son by means of *lathi*, *danda*, sword etc., as a result of which, son of the informant died at the place of occurrence.

Learned counsel for the petitioner submits that the occurrence has allegedly taken place on 13.10.2019 but the First Information Report has been lodged after delay of three days i.e. 16.10.2019 without any reasonable explanation. Learned counsel further submits that the inquest report shows that it was prepared on 13.10.2019 i.e. before lodging of the First Information Report. Learned counsel referring to supplementary affidavit submits that on the date of occurrence, petitioner was being treated in a hospital inasmuch as he had received some injuries in a separate incident, for which, the petitioner has lodged complaint before the Chief Judicial Magistrate, Siwan.

On the other hand, learned counsel for the State submits that there is specific allegation of assault against the petitioner and other co-accused persons that they took the son of the informant to the cremation ground and in close proximity of the same, the dead body of the son of the informant was found lying on the same day. Learned counsel further submits that the anticipatory bail of similarly situated co-accused persons namely, Anil Kumar Mahto @ Anil Kumar and Santosh Kumar



Mahto @ Santosh Kumar have been rejected by this Court in Cr.
Misc. No. 26356 of 2020.

Having heard learned counsel for the parties and taking into consideration the materials on record and the fact that the dead body of son of the informant was found in the close proximity near cremation ground and the son of the informant had gone along with the petitioner and other co-accused persons, I am not inclined to grant anticipatory bail to the petitioner.

Accordingly, the prayer for anticipatory bail of the petitioner stands rejected.

(Anil Kumar Sinha, J)

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