

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40170 of 2020

Arising Out of PS. Case No.-136 Year-2020 Thana- PAROO District- Muzaffarpur

Shyam Babu Sah, Son of Late Nagina Sah Resident of Village - Jafarpur, P.S.-
Paroo, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur- Advocate

For the Opposite Party/s : Mr. Akbar Ali- A.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 16-06-2021 Heard Mr. Ajay Kumar Thakur, the learned

Advocate for the petitioner and Mr. Akbar Ali, the learned

APP for the State.

The petitioner seeks bail in anticipation of his
arrest in connection with Paroo P. S. Case No.136 of 2010,
instituted for the offences under Sections 302, 307, 326,
120(B)/ 34 of the Indian Penal Code.

The accusation in the F.I.R. is that the two sons
of the informant born out of his wedlock with his second
wife have been killed at the hands of his own sons with the
first wife. They were supported in this act by the father-in-
law of one of the sons, one of the grandsons of the
informant and the petitioner, who is a neighbor of the



informant and had been negotiating with him for purchase of land from him.

Learned counsel for the petitioner has tried to impress upon this Court that so far as the accusation of assault is concerned, it has not been attributed to him. Even in the first information report, the name of the petitioner has been taken in a vague manner alleging that he had tried to persuade the informant for selling his land to him.

After a thorough investigation, charge-sheet was submitted against the accused persons, who are none else but the sons of the informant and the investigation was kept pending for about seven years and final report false was ultimately submitted in favour of the petitioner. However, during the trial, after the deposition of PW-1, who is the mother of the two deceased persons and wife of the informant, the petitioner has been summoned to face trial.

Learned counsel for the petitioner has submitted that according to the F.I.R., three sons of the informant born out of the wedlock with his first wife were clamouring for partition of the property. During the same time, an attempt was made by the petitioner to purchase some plot of land of



the informant. A Civil litigation in the shape of Partition Suit also was filed, but the same was finally decided. On one fateful night, one of the sons of the accused persons (grandson of the informant) came and stayed with the family of the informant and in the night, the occurrence took place in which two young sons of the informant were killed and wife of the injured.

Considering the fact that the wife of the informant, who is PW-1 of this case, has categorically stated in her deposition before the trial Court that when she saw the marauders, she identified the petitioner also, I am not inclined to grant anticipatory bail to him.

The other reason for rejecting the anticipatory bail of the petitioner is that the order of summoning under Section 319 of the Cr.P.C. was passed sometimes in the Year 2019, but the petitioner has approached the Court much later.

In any view of the matter, the prayer for anticipatory bail is rejected.

However, if the petitioner surrenders before the Court below and seeks bail, his application shall be



considered on its own merit, taking into account that no specific role of assault has been attributed upon him and that during investigation, he was not charge-sheeted and sent up for trial and shall pass orders in accordance with law without being prejudiced with the fact that present petition on his behalf has not been entertained.

(Ashutosh Kumar, J)

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