

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25993 of 2021

Arising Out of PS. Case No.-243 Year-2019 Thana- PARASBIGHA District- Jehanabad

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Masudan Bind, Son of Faresh Bind, R/O Village- Hirdanchak, P.S.-
Parasbigha, District- Jehanabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar, Advocate

For the Opposite Party/s : Mr. Anand Mohan Prasad Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

4 21-01-2022 The applicant/accused in Crime No. 243 of 2019 registered with Parasbigha Police Station for the offences punishable under Sections 147, 148, 149, 341, 323, 307 and 302 of the Indian Penal Code, by this application is seeking his release on bail during pendency of the trial.

Heard the learned counsel appearing for the applicant/accused. He argued that informant is not an eye witness to the incident. He further argued that other co-accused are already granted anticipatory bail by the learned trial court. My attention is drawn to the report of postmortem examination and it is argued that version of sole eye witness Sonarik Bind is incorrect as the postmortem report shows only



three injuries. Hence this witness is not an eye witness to the incident.

The learned Additional Public Prosecutor opposed the application by relying the statement of Sonarik Bind as well as report of the postmortem examination.

The FIR is subject crime is lodged by first informant Birendra Singh who happens to be brother of the deceased Amrik Bind. The first informant is not an eye witness to the incident. Amrik Bind had sustained following injuries which has resulted in his homicidal death:-

- “i. Fracture of right ankle.
- ii. Fracture of right wrist joint with bleeding
- iii. Fracture of right elbow joint with bleeding.”

The cause of death is stated to be a cardiorespiratory failure due to loss of blood leading to fractures with bleeding.

Sole eye witness Sonarik Bind has named the applicant as well as other co-accused as the assailant and had averred that they all had assaulted Amrik Bind by means of sticks, knife etc.

Prima facie homicidal death is established. The death is caused in a most brutal way. The deceased was done to death by causing fractures to his limbs with such a force that the fracture injuries were accompanied by bleeding and



because losses of blood, Amrik Bind died. Formation of unlawful assembly with common object is apparent from the statement of Sonarik Bind.

Unfortunately the learned trial court while granting anticipatory bail to the other accused persons have committed error of law as well as fact. It is stated in bail order of other co-accused persons that there are no specific allegation of overt act against the Sudhir Bind. While granting anticipatory bail to co-accused Sanoj Kumar and others, the learned Additional Sessions Judge- IV, Jehanabad observed that no independent witnesses are examined except Sonarik Bind. This court is unable to endorse such perverse and illegal view of the learned court below. It is seen that the learned lower court has failed to consider the impact of provisions of Sections 147, 148 and 149 invoked by the prosecution in the instant case.

Be that as it may, no parity can be claimed by the applicant in the wake of such orders granting anticipatory bail to the co-accused by the learned Additional Sessions Judge. The application is devoid of merit and accordingly the same is rejected.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this



order only after removal of office objections by the
applicant/accused.

Bhardwaj/-

(A. M. Badar, J)

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