

**SamsuddIn Ansari. Vs.**

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**Court :** Jharkhand Ranchi

**Decided On :** Apr-27-2011

**Judge :** Prashant Kumar, J.

**Acts :** Code of Criminal Procedure (CrPC) - Section 438(2)

**Appeal No. :** A.B.A. No. 373 of 2011.

**Appellant :** SamsuddIn Ansari.

**Respondent :** The State of Jharkhand.

**Advocate for Def. :** Mr. A.K. Prasad, Adv.

**Advocate for Pet/Ap. :** Mr. Kailash Prasad Deo, Adv.

**Judgement :**

1. Anticipatory bail application filed by petitioner, Samsuddin Ansari is moved by Sri Kailash Prasad Deo, counsel for the petitioner and opposed by Mr. A.K. Prasad, Additional P.P. and Mr. Manoj Kumar Sah, counsel for the informant. It is alleged that when petitioner was standing near the place of occurrence along with Pranav Dutta, Manas Dutta and Chintu Dutta, three unknown persons came on motorcycle and talked with petitioner and other accused. During the said talk, petitioner pointed out his finger towards the deceased.

2. It is further alleged that after sometime two unknown persons opened fire on the deceased, due to that deceased died. It is further alleged that petitioner has some

inimical relation with the deceased in connection with money transaction. It is submitted by Sri K.P. Deo, learned counsel for petitioner that there is absolutely no legal evidence in the case diary to show that petitioner has any dispute with the deceased in connection with money transaction.

3. It is submitted that from perusal of statement of Laxman Sah at paragraph no.34 of case diary, it is clear that he has no personal knowledge regarding the dispute, because he has not given the details about the money transaction. It is further submitted that in the entire case diary, there is no evidence of conspiracy. Accordingly, he submits that petitioner be enlarged on anticipatory bail.

4. On the other hand, Sri A.K. Prasad, learned Additional P.P. and Sri Manoj Kumar Sah, learned counsel for the informant submit that there is ample evidence to show that on being pointed out by this petitioner, unknown accused persons fired on deceased causing his death.

5. It is further submitted that in the First Information Report as well as in the case diary at paragraph no.34, there is evidence to show that petitioner has inimical relation with the deceased. Therefore, there is strong circumstantial evidence against petitioner. Hence, petitioner does not deserve anticipatory bail.

6. Having heard the submissions, I have gone through the records and case diary. From perusal of case diary, I find that there is no evidence to show that petitioner hatched conspiracy with unknown accused persons for committing murder of deceased. It is also not out of place to mention that place of occurrence is a hotel, where so many villagers standing at the time of occurrence.

7. Thus, it may be possible that some unknown accused persons might have come to petitioner and asked about the deceased and petitioner might innocently pointed his finger towards deceased. Thus, only because of that it cannot be said that petitioner hatched a conspiracy for committing murder of deceased. Considering the aforesaid facts and circumstance, I allow this anticipatory bail application and I direct the petitioner, above named, to surrender in the court below by 6th May 2011.

8. If petitioner surrenders by that time, learned court below is directed to enlarge him on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Godda in connection with Mahagama P.S. Case No.156 of 2010 corresponding to G.R. No.1183 of 2010, subject to the condition as laid down under Section 438 (2) of the Cr.P.C

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