

**CrPC, 1974 (2 of 1974), S.438 - Cancellation of bail - Order granting anticipatory bail has ignored material aspects, including nature and gravity of offence - Order granting bail, liable to be cancelled.**

*Held, .....*

Appellant's case supported by the FIR, his statements under Sections 161 and 164 of the CrPC- Statements of the other two eye-witnesses recoded under Section 164 of the CrPC - Investigating officer's first report indicated that there was a prima facie case against the accused - Supplementary challan indicates that more material had emerged during the course of investigation as against the events portrayed in the FIR registered - Case portrayed by the appellant could not have been ignored by solely relying on the counter-FIR - High court relied upon the report submitted under Section 173 of the CrPC to hold that accused were not present when the incident occurred - High Court has not addressed the clear deficiencies in the course of the investigation which have been highlighted in the order of the JMFC - Inter alia: (i) the failure to notice eye- witness statements; (ii) reliance on CCTV footage for the period of time after incident had occurred, ignoring prior or contemporaneous footage; (iii) not collecting CCTV footage between Jabalpur and the scene of offence; (iv) relying on CDRs without determining if Jogendra Singh and Suryabhan Singh had actually used the number; and (v) not conducting any finger print analysis - JMFC identified these deficiencies with the investigation and directed further investigation - Upon the submission of the supplementary challan, the JMFC noted that the challan was only in relation to Ujyar Singh and Chandrabhan Singh, and did not address the role of Jogendra Singh and Suryabhan Singh - The obvious deficiencies in the investigation have pointed out the errors in the trial Court's order dated 24 March 2021 rejecting Jogendra Singh and Suryabhan Singh's applications for anticipatory bail - The Single Judge has, however, overlooked these crucial aspects - It has also been argued on behalf of Suryabhan Singh that while the appellant's statement under Section 164 of the CrPC is that Suryabhan Singh also shot at the appellant, the FIR and his statement under Section 161 of the CrPC only record that he hit him with the butt of the gun - The trial is yet to take place where the evidence adduced by the prosecution will be appreciated, and the veracity of appellant's claim in his statement under Section 164 can be determined there - However, at the present stage, the FIR and both the appellant's statements under Section 161 and 164 are consistent in as much as that Suryabhan Singh did hit him in his head with the butt of the gun - The Court has to determine whether on the basis of the material available at this stage, the High Court has applied the correct principles in allowing the applications for anticipatory bail - The offence is of a serious nature in which Vikas Singh was murdered - The FIR and the statements under Sections 161 and 164 of the CrPC indicate a specific role to Jogendra Singh and Suryabhan Singh in the crime - The order granting anticipatory bail has ignored material aspects, including the nature and gravity of the offence, and the specific allegations against Jogendra Singh and Suryabhan Singh - Hence, a sufficient case has been made out for cancelling the anticipatory bail granted by the High Court.

MCRC No. 31835 of 2021, D/- 01-07-2021 (MP), Reversed.

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