

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66294 of 2024

Arising Out of PS. Case No.-346 Year-2024 Thana- CHAPRA TOWN District- Saran

Kamakhya Singh @ Deepu Singh Son of Late Shyam Sundar Singh Resident
of village - Bara Telpa Naya Basti, P.S.- Chapra, District - Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Parashuram Singh, Advocate

For the Opposite Party/s : Mr. Ram Anurag Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 23-10-2024

1. Heard learned counsel for the petitioner, learned A.P.P. for the State and learned counsel appearing on behalf of the informant.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 147, 148, 149, 307, 302/34 and 120(B) of the Indian Penal Code as well as Section 27 of the Arms Act.

3. Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and the informant alleges that on 20.05.2024 during Lok Sabha Election at Booth No. 318 and 319, the RJD candidate came when some miscreants abused and misbehaved with her and also attacked her for which Chapra P.S. Case No. 342 of 2024 was instituted. It is next alleged that on account of the said occurrence dated 20.05.2024, 12 named accused persons including the petitioner



on 21.05.2024 along with 40-50 unknown accused came variously armed and intercepted his son Chandan Ram at 07:00 a.m. at Bikhari Chauk. Further, on orders of Chandan Singh, Manoj Kumar Singh and Mintu Singh, accused Ramakant Singh shot the son of the informant on his chest, thereafter petitioner shot Guddu Kumar causing injury on his waist while Ram Pratap Singh shot Manoj Ram causing injury on his temple and Satya Nand Singh shot Deepak causing injury on his right rib. It is next alleged that on alarm, the informant along with others came at the place of occurrence when the accused persons fled away and the injured were taken to the hospital where the Doctor declared Chandan Rai dead.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the instant case by the informant. It is further submitted that no overt act has been alleged against the petitioner. It is next submitted that from perusal of the allegation as alleged in the FIR, it would manifest that informant is not an eyewitness to the occurrence as he himself has stated in the FIR that the accused persons fled away when they saw that informant along with others are coming towards the place of occurrence on hearing the sound of firing. It is also submitted that no doubt Chandan Rai died but then



allegation of firing is against Ramakant Singh. It is submitted that the allegation does not even remotely suggest that on what basis the informant alleges that petitioner was also present at the place of occurrence when it is not disclosed in the FIR that he came to know about the presence of the accused persons including the petitioner by any of the injured or any eyewitness to the occurrence. It is further submitted that the FIR was instituted on 21.05.2024 and the petitioner was not even aware that he has been implicated in the instant case as accused no. 11 and the police in haste applied for process under Section 82 Cr.P.C. on 01.07.2024 and the same also came to be issued in a mechanical manner when the law is clear that process under Section 82 Cr.P.C. is not to be issued for mere asking and for helping the police in investigation. It is fairly submitted that after the petitioner came to know about the institution of the instant FIR, he approached the learned District Court in the month of August, 2024 seeking anticipatory bail which came to be rejected. It is submitted that the occurrence took place at 07:00 a.m. in the morning and the FIR came to be instituted at 08:30 p.m. in the evening on the same day i.e. after more than twelve hours but still the FIR does not disclose that on what basis the informant came to know about the involvement of the



petitioner in the occurrence. It is further submitted that petitioner will not abscond rather will cooperate in the investigation to prove his innocence.

5. Learned counsel appearing on behalf of the informant opposes the prayer for anticipatory bail of the petitioner and submits that similarly situated co-accused Mithilesh Singh @ Mithilesh Kumar Singh had approached this Court seeking anticipatory bail in Cr. Misc. No. 63918 of 2024 but the same came to be rejected on the ground that process under Section 82 Cr.P.C. has been issued by an order dated 23.10.2024 on which learned counsel appearing on behalf of the petitioner submits that petitioner is not similarly situated like Mithilesh Singh @ Mithilesh Kumar Singh as he is alleged to have fired causing injury to Guddu on his waist when against the petitioner there is no specific allegation.

6. The Court concurs with the submission of the learned counsel appearing on behalf of the petitioner that informant is not an eyewitness to the occurrence nor the FIR discloses that on what basis the informant has alleged that petitioner was also present at the place of occurrence and process under Section 82 Cr.P.C. is not to be issued for mere asking for helping the police in the investigation, rather process



under Section 82 Cr.P.C. is issued for ensuring the presence of the accused before the court.

7. Considering the submissions made by the learned counsel for the petitioner, let the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Chapra Town P.S. Case No. 346 of 2024, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

8. However, it is made clear that if the investigating officer of the case files an application bringing to the notice of the learned trial court that petitioner despite giving assurance to this Court is not cooperating in the investigation, the learned trial court shall be at liberty to cancel the bail bonds of the petitioner.

(Satyavrat Verma, J)

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