

GAHC010167722022



IN THE GAUHATI HIGH COURT
(The High Court of Assam: Nagaland: Mizoram &
Arunachal Pradesh)

Crl. Pet. 850/2022

Rajesh Kumar Yadav
Son Of Late Lakshmi Kumar Yadav
R/O Shima, P.S. Bithan
Dist. Samastipur, Bihar
Presently Residing At Nalapara
Garalia Goli, P.S. Basistha,
Dist. Kamrup (Metro), Assam

..... Petitioner

Versus

The State Of Assam And Anr
Rep. By The PP, Assam
2:Tinku Yadav
S/O Late Ramadhar Yadav
R/O Chartibari
Fire Brigade Goli
House No. 49
P.O. Paltan Bazar
Guwahati - 78100

..... Respondents

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

Advocate for the Petitioner : Mr. Y.S. Mannan
Advocate for the Respondent : Mr. S.M. Abdullah P (res Nos. 2)
Mr. R.R. Kaushik, Addl. P.P.
Date of Hearing : **24.07.2023**
Date of Judgment : **03.08.2023.**

ORDER (Oral)

1. Heard Mr. Y.S. Mannan, learned counsel for the petitioner Rajesh Kumar Yadav. Also heard Mr. S.M. Abdullah, learned counsel for the respondent no. 2 and Mr. R.R. Kaushik, learned Addl. P.P. for respondent no. 1.
2. The petitioner, namely, Rajesh Kumar Yadav has filed this application under Section 482 of the Code of Criminal Procedure, 1973 (CPC for short) with prayer for setting aside and quashing the proceeding initiated through the FIR registered as Paltanbazar P.S. Case No. 105/2022, under Sections 302/34 of the Indian Penal Code (IPC for short) read with Section 25 (1-a)/27 of Arms Act in connection with the present petitioner. The informant Shri Tinku Yadav is arrayed as respondent no. 2 in this case. It is alleged that on 21.02.2022 at around 08.30 P.M. two persons riding a bike, shot the informant's brother near the entrance of his residence at Chatribari. The informant's brother was taken to Marwari Maternity Hospital but the deceased, Abdesb Yadav succumbed to the injuries sustained by him. Chandrabati Yadav and B.P. Singh Yadav were named in the FIR as the perpetrators riding the bike.

3. It was mentioned in the FIR that the perpetrators were sent by Dablu Yadav, Radhik Raman, Gopi Yadav and Rajesh Yadav.

4. It is contended that the petitioner was arrested only on suspicion and he was remanded to police custody for seven days, despite the fact that he was not named in the FIR. This Court has also granted him bail in connection with Bail Application No. 844/2022 vide order dated 29.04.2022. It is submitted that the petitioner is not connected with this case and he was arrested solely on the ground of suspicion. He was working for the deceased as his employee for ten years but in the year 2015, the petitioner left his job under the deceased and started working independently.

4. It is submitted by the learned counsel for the respondent that animosity prevails between the deceased and the accused named in the FIR. The learned counsel for the respondent no. 2 as well as the learned Addl. P.P. has raised serious objections against the petitioner. On the foot of the FIR, the name of the accused Rajesh Yadav has been mentioned as one of the perpetrators of the crime. The petitioner is booked under Section 302/34 IPC read with Section 25(1-a)/27 of the Arms Act. The scanned copies of the LCR reveals that charge-sheet has been laid against the present petitioner as accused No. 1, under Sections 302/34 IPC and prosecution sanction to incorporate Section 25(1-a)/27 of the Arms Act, 1959 is awaited. It is apparent that the petitioner is booked under a serious offence. There appears to be no justified ground to invoke the inherent jurisdiction under Section 482 Cr.P.C. Petition is hereby dismissed, with a cost of Rs. 1,000/-. The cost realised is to be deposited in the cost fund of the Assam State Legal Services Authority.

JUDGE

Comparing Assistant