

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36174 of 2014

Arising Out of PS.Case No. -228 Year- 2013 Thana -BHAGWAN BAZAR District- SARAN

1. Awadhesh Kumar Yadav @ Awadhesh Rai Son of Late Bengali Rai
Resident of Village - Shyamchak , P.S . Bhagwan Bazar District - Saran

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

with

Criminal Miscellaneous No.40771 of 2014

Arising Out of PS.Case No. -228 Year- 2013 Thana -BHAGWAN BAZAR District- SARAN

1. Lalit Rai S/o Anarsi Rai, R/o Village- Hirani Gaushala, P.S. Mufassil,
Dist.- Saran, Chapra

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.36174 of 2014)

For the Petitioner/s : Mr. Ravindra Kumar

For the Opposite Party/s : Mr. Md. Fahimuddin(App)

(In Cr.Misc. No.40771 of 2014)

For the Petitioner/s : Mr. Avanish Kumar Singh

For the Opposite Party/s : Mr. Pramod Kumar Pandey (App)

CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

6 09-07-2015 Heard Shri Vindhyachal Singh, Advocate appearing on
behalf of the petitioner Awadhesh Kumar Yadav and Shri Avanish
Kumar Singh, Advocate on behalf of the petitioner Lalit Rai.

The two petitioners are named in Bhagwan Bazar
P.S.Case No.228 of 2013 under Sections 302 and 379/34 Indian
Penal Code and 27 of the Arms Act. The two petitioners do not
really bear any direct allegation of committing any overt-act so as



to causing the death of the deceased or aiding in his death. However, what appears is that after earlier altercation with the informant and the deceased on a trifle matter, when the earth moving machine was standing at a railway crossing, on account of the closure of the crossing, these petitioners along with others came there and petitioner Lalit Rai pulled the informant down from the vehicle and this petitioner ordered Vicky to fire a shot who pulling out a pistol from his waist, fired two shots; one hitting in his back and the other on his knee.

Submission by Shri V. Singh was that the FIR was belated and the explanation was missing in that behalf. Submission also is that petitioner Awadhesh Kumar Yadav might be named in the FIR but he does not bear any allegation. It was also submitted by Shri Singh that the implications are false inasmuch as the police had verified the plea of alibi of accused Vicky and appears finding him present in Goa at the time of occurrence. As regards petitioner Lalit Rai, the submission is that he had not done anything to deceased and he had only pulled down the informant from the vehicle to make certain enquires from him and, as such, he may not be responsible for causing the death of the deceased.

Learned counsel for the informant and the learned counsel for the State have resisted the prayer for anticipatory bail of the two petitioners.

It shall be too early and hazardous for this Court to uphold the submission for granting anticipatory bail to any of the accused in a case under Section 302 in the FIR of which they are named as accused. Petitioner Awadhesh Kumar Yadav is bearing a direct allegation of abetting Vicky Rai to shoot the deceased. He appears to be the moving mind behind the killing of the deceased. So far as petitioner Lalit Rai is concerned, he might not have ordered or might have ordered or might have done any other act, but the three accused persons had come together after the matter had initially ended and he had pulled down the informant from the vehicle down and that also appears a part of the same transaction which ultimately had ended in killing of the deceased.

Regard being had to the fact that petitioners are named in the FIR in a case under Section 302 Indian Penal Code, the Court is not inclined to release the above named two petitioners in the two petitions on anticipatory bail. However, if the two petitioners surrender before CJM, Saran in connection with the above noted case and pray for regular bail, the same has to be considered without being prejudiced by any order of rejection considering exclusively the individual allegations which might appear against any accused persons.

(Dharnidhar Jha, J)

B.Kr./-Saif.

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