

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23509 of 2016

Arising Out of PS.Case No. -254 Year- 1995 Thana -BUXAR District- BUXAR

1. Sanjay Tiwari Son of late Ram Pravesh Tiwari Resident of Villae Ramdiha PS Buxar (M) at present residing at Civil lines, Buxar Hospital Road, Buxar.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra, Advocate

For the Opposite Party/s : Mr. Jagdhar Prasad (App)

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 13-07-2016 Heard learned counsel for the petitioner and the learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Buxar (Town) P. S. Case No. 254/1995 registered for offence punishable under Section 302/34 of the Indian Penal Code and under Section 27 of the Arms Act.

The prosecution case is that Buxar (Town) P.S. Case No. 254 of 1995 was lodged by the informant on 29.09.1995 against unknown alleging therein that on 29.09.1995 at about 5 P.M., he along with his nephew had gone for evening walk and when reached near the house of Sanjay Tiwari, some sorts of firing was made. Thereafter, the informant saw that Sanjay Tiwari

along with two unknown persons were carrying his nephew on rickshaw in injured condition and nephew was shot on his chest and in the hospital, he died.

It has been submitted by the learned counsel for the petitioner that he was a very close friend of the deceased, Rahul Upadhaya, nephew of the informant and had in fact taken the deceased on rickshaw which has been stated by the informant himself.

It has further been submitted that the petitioner appeared as witness which reflects from paragraph-83 of the case diary and upon police investigation at para-68 of the case diary has also not found that the petitioner have committed the said offence. He further submits that till date no final form has been submitted by the police and investigation in the case is still going on and just because firing was done from the house of the petitioner, the petitioner has been falsely implicated as also he is not named in the F.I.R.

However, learned counsel appearing for the State submits that cognizance has been taken against the petitioner having found prima-facie evidence against him in paras 11, 12 and 13 of the case diary which point out that firing was made from the house of the petitioner.

Be that as it may, since the petitioner has not been named by the informant, rather the informant has stated that the entire story could be narrated by the petitioner and the petitioner has been summoned and deposed as a witness, let the above named petitioner in the event of his arrest or surrender before the Court below within a period of eight weeks from today be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Buxar in connection with Buxar (Town) P. S. Case No. 254 of 1995, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

(Nilu Agrawal, J)

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