

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.11136 of 2016**

Arising Out of PS.Case No. -806 Year- 2015 Thana -KANKARBAGH District- PATNA

- =====
1. Shankar Rai son of Tarkeshwar Rai,
  2. Mahesh Rai son of Ram Ayodhya Rai Both residents of Mohalla- Azad Path Gali No.5, P.S.- Kankarbagh, District- Patna.

.... .... Petitioners

Versus

The State of Bihar

.... .... Opposite Party

=====

**Appearance :**

For the Petitioners : Mr. Durgesh Nandan, Advocate

For the Opposite Party : Mr. P.K.Chaurasiya, APP

=====

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH**  
**ORAL ORDER**

2      02-05-2016              A supplementary affidavit has been filed on behalf of the  
  
petitioners, which is kept on record.

Learned counsel for the petitioners seeks permission to  
withdraw the application of petitioner no.1, namely, Shankar Rai,  
the same is dismissed as withdrawn.

Heard learned counsel for the petitioner no.2, namely,  
Mahesh Rai, learned counsel for the Informant and learned  
counsel for the State.

The petitioner Mahesh Rai is apprehending his arrest in  
connection with Kankarbagh P.S. Case No. 806 of 2015 pending  
in the Court of Judicial Magistrate, Ist Class, Patna, for the  
offences instituted under Sections 302 and 120(B)/34 of the Indian  
Penal Code.



As per the prosecution case, the informant lodged a fardbeyan alleging therein that he as well as his brother Ram Kumar were at his house as their grand father was ill, in the meantime, they heard sound of firing where upon they saw from the railing that all the accused persons after opening fire were fleeing towards south and also saw that their brother Meghnath Rai had fallen upon the road and he was taken to hospital where he died during course of treatment as he had received fire arm injury upon his back portion of the head.

It has been submitted on behalf of the petitioner no.2 Mahesh Rai that the petitioner has falsely been implicated in the present case. It is a case of last seen. There is no direct or indirect evidence against the petitioner no.2 Mahesh Rai. In course of investigation, the main allegation of firing upon the deceased has been alleged against one Chhotu Rai.

On behalf of the State and the counsel for the Informant, it has been submitted that the petitioner no.2 Mahesh Rai is named in the FIR and has actively participated in the alleged occurrence and was seen fleeing away from the place of occurrence after the alleged occurrence.

Considering the aforesaid facts and circumstances of the case, I am not inclined to release the petitioner no.2, namely,

Mahesh Rai on anticipatory bail, the same is rejected.

Anyhow, if the petitioner no.2, namely, Mahesh Rai surrenders in the court below within a period of four weeks, the same shall be considered on its own merit without being prejudiced by this order taking into account the submissions made on his behalf and if possible, the same may be disposed of on the same day.

(Sudhir Singh, J)

B.Kr./-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|