

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51980 of 2015

Arising Out of PS.Case No. -368 Year- 2015 Thana -GOPALGANJ CITY District- GOPALGANJ

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Golden Kumar @ Abhinav Abhijeet S/o Shri Jitendra Singh, Resident of
village- Hajiapur, P.S.- Gopalganj, District- Gopalganj

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dharmesh Kumar

For the Opposite Party/s : Mr. Madhuranand Jha (App)

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH**
ORAL ORDER

3 04-02-2016 Heard learned counsel for the petitioner and learned

counsel for the State as well as learned counsel for the

informant.

Petitioner apprehends his arrest in a case under
Sections 307/120B/34 of Indian Penal Code and 27 of the Arms
Act, which was subsequently, converted into section 302 of the
IPC on the death of the informant.

The fardbeyan of the informant was recorded on
30.08.2015 at about 03:40 pm in the Emergency Ward of Sadar
Hospital. In his fardbeyan the informant stated that on
30.08.2015 at 02:45 p.m., two unknown persons came as client
to his residential house and called for him. The informant, who



was on the first floor, came to his office on ground floor where the said two persons were sitting from before. One of the persons threatened him from continuing his enmities with the petitioner and further asked him to transfer the house in favour of the petitioner. As per the informant, the petitioner along with to unknown persons arrived and also entered into his office. One of the two unknown persons shot at his chest with country made pistol. The petitioner was carried to the Emergency Ward of Sadar Hospital, Gopalganj, where his statement was recorded at 03:40 p.m. His statement was recorded within one hour of being assaulted at about 02:45 p.m. on the same day. The petitioner submits that he is innocent and has been falsely implicated on account of previous enmities. He submits that even assuming the prosecution case to be true, he would not be the assailant of the deceased. There is no allegation of any specific overt act against him. Furthermore, none of the neighbours stated that they saw the petitioner anywhere near the house of the informant at the time of occurrence, much less seeing him entering into the house. There are some statements of the family members, some of whom state that the petitioner was seen in lane and some state that the petitioner was seen on the road at the time of



occurrence. The sheet anchor of the petitioner's defence is that the C.C.T.V. installed in the house reveals that only two persons in all had entered informant's house. He next submits that the informant was the tenant of his father and had not even paid a single amount of rent for a long years and had differences with his sister who was running a school nearby his house and as such, false implications.

Learned counsel for the State and Informant have opposed the prayer for anticipatory bail. They submit that the informant was a leading lawyer having about 50 years of practice. He has been brutally killed in his office at the behest and in active connivance of the petitioner, by playing deceit.

It is true that C.C.T.V. installed in the informant's office shows presence of only two persons and the main allegation of firing is against an unknown person. Nonetheless, the informant, who succumbed to the injuries, stated that initially two persons came and warned him for taking fight against the petitioner. Thereafter, the petitioner himself came with two other persons. As soon as the petitioner came, one of the unknown persons opened fire causing fatal injury on his chest.

In such circumstances, it is difficult to doubt the statement of the informant atleast at this stage, which would be akin to dying declaration. As per F.I.R., the petitioner was a part of the group of five persons, one of whom shot fire at the informant by calling him in his office by playing deceit. The grounds put forth by the petitioner could be a ground for consideration of regular bail.

In the facts and circumstance, I am not inclined to grant anticipatory bail to the petitioner. Prayer for anticipatory bail of the petitioner is refused with direction to surrender and seek regular bail which would be disposed of on its own merit without prejudice, preferably on the same day.

(Samarendra Pratap Singh, J)

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