

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.427 of 2016

Arising Out of PS.Case No. -177 Year- 2015 Thana -BELDAUR District- KHAGARIA

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Akhilesh Singh, Son of Sri Prabhat kumar Singh Resident of Village-
Bisnupur, p.s Beldaur, District Khagaria.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Abhay Kr. Singh, Advocate
For the State : Mr. Upendra Kumar (App)

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

4 25-02-2016 Heard learned counsel for the petitioner and

the State.

Petitioner apprehends his arrest in a case filed
under Sections 364, 302, 201/34 of the Indian Penal Code
and Section 27 of the Arms Act.

It is contended on behalf of the petitioner that
his name has been taken only on the basis of suspicion.
Though the alleged sound of firing was heard on 01.08.2015
and on the place of occurrence blood was found but the
F.I.R. has been lodged after much delay in the evening at
about 4.15 p.m. It is stated in the F.I.R. that all the persons
took the deceased on the pretext of attending some 'Bhoj',
they killed the victim subsequently and the occurrence was
seen by several persons of Village Bisnupur and Laxmania

and also that after killing the deceased, he was cut into pieces and everything was thrown in the river, however, on 03.08.2015, dead body was recovered along with five firearm injuries including the entry and exit wounds. It is contended that during the course of investigation, all the persons have only stated that the deceased was taken away and this petitioner had called on telephone the son of the deceased at about 9.30 p.m. asking as to whether the petitioner had reached or not as there has been sound of firing. That apart, though it is clear from the first information report that informant is not an eye-witness to the occurrence and such statement of killing by firearm has been made on the basis of the fact that certain persons of both the villages had seen the occurrence but none of the witnesses have said that they have seen the occurrence or the petitioner is involved in the case except suspicion that the petitioner, his father and Abhiymanu Yadav and others had taken the petitioner for Bhoj as there was marriage ceremony of the brother-in-law of the petitioner on that day. Statement of the Up-Mukhiya of the Panchayat of the village has also been recorded and she has stated that deceased had attended the 'Bhoj' ceremony. It is also contended that the fact is that though in so many words it has been alleged in the F.I.R. that occurrence was seen by



several persons of the village Bisnupur and Laxmania but none of the persons whose statements have been recorded have stated that they have seen the occurrence coupled with the fact that the F.I.R. was lodged not even in the morning next day but in the evening at about 4.15 p.m. and that gives a dent to the entire story which has been set up in the first information report. Thus, it is contended that there is nothing against the petitioner except suspicion and the fact that he had called the victim for attending the Bhoj ceremony. It is also urged that though in the F.I.R. it has been stated that about 5 unknown persons were accompanying the accused and they had covered their faces and they almost forcibly took the deceased for attending 'Bhoj' but in her further statement recorded by the police the informant has simply stated that about 8-10 persons were with the accused when they came for inviting the deceased. The story of using force or coercing him to accompany them has neither been supported by her nor by her son Vibhas Kumar whose statement was also recorded by police. Learned counsel submits that it is further intriguing that, in case the deceased was forcibly taken to attend 'Bhoj' by three named and five unknown persons with covered faces then why the informant failed to raise alarm or inform the police immediately. However, the

subsequent variation in her own further statement gives heavy dent to the allegation made in the FIR as one of the witnesses has stated that the deceased had attended the 'Bhoj' and none has stated that he has seen the petitioner and other named accused firing and killing the deceased. He further submits that entire story is based on suspicion and suspicion, however may be strong, cannot be considered as evidence of commission of crime. It is also contended that petitioner's antecedent is clean.

Having regards to the facts and circumstances of the case, in the event of arrest/surrender within a period of six weeks from today in Beldaur P.S. case no.177/15, the above named petitioner, Akhilesh Singh shall be released on bail on furnishing bail bond of Rs.10,000 (Ten Thousand Rupees) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Khagaria subject to the conditions as laid down under sub-section(2) of Section 438 of the Code of Criminal Procedure.

Sanjay-II/-

(Dr. Ravi Ranjan, J)

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