

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22971 of 2016

Arising Out of PS.Case No. -30 Year- 2014 Thana -KASHICHAK District- NAWADA

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Diwakar Singh @ Diwakar Kumar S/o Birender Singh R/o Vill- Belar, P.S.-
Kashichak, Distt- Nawada.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Amresh Kumar Sinha, Advocate.

For the Opposite Party : Mr. Dilip Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 03-08-2016 Heard both sides.

The petitioner apprehends his arrest in Kashichak P.S.
Case No. 30 of 2014, registered for the offences punishable under
Sections 304 and 34 of the Indian Penal Code.

The informant alleged that his son Arun Singh was
keeping watch of the tower of reliance company and he was
sleeping in A.C. room. The petitioner was also sleeping in the
room situated on the ground floor. The informant heard sound of
firing at 12:30 a.m. and saw that the petitioner and other persons
fleeing away from the place of occurrence. The informant saw his
son lying on the ground and blood was oozing from the head of his
son.

Learned counsel for the petitioner submits that there is



omnibus and general allegation against all the accused persons including the petitioner. The informant did not see who fired. The informant in his further statement improves the case and stated that he saw the petitioner fleeing away with pistol in his hand. All the witnesses are family members of the informant, but the villagers stated that the petitioner was not present in his village on the date of occurrence as he was residing in Kolkata. The police after investigation submitted final form.

On the other hand learned counsel for the informant as well as the learned APP vehemently opposed the prayer for anticipatory bail of the petitioner.

It appears that the informant specifically stated that he immediately, on hearing of sound of firing, got up and saw the petitioner and other accused persons fleeing away from the place of occurrence. The witnesses have also seen the petitioner fleeing away from the place of occurrence. But the police accepted the plea of alibi, though it is a very weak piece of evidence, submitted final form and the court below took cognizance differing with the finding of the investigating officer. The anticipatory bail of similarly situated co-accused Jitendra Singh in Cr. Misc. No. 36256 of 2014 and Arun Singh in Cr. Misc. No. 56671 of 2015 have already been rejected.

Considering the facts aforesaid, I am not inclined to enlarge the petitioner above named on anticipatory bail in Kashichak P.S. Case No. 30 of 2014 pending in the court of Sri Rakesh Kumar, the Judicial Magistrate, 1st Class, Nawada. Accordingly, the same is rejected.

(Prabhat Kumar Jha, J.)

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