

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29363 of 2017

Arising Out of PS.Case No. -2079 Year- 2013 Thana -SARAN COMPLAINT CASE District-
SARAN

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Upendra Singh @ Upendra Kumar Singh Son of Late Tribhuwan Narayan Singh, resident of Village- Mashrakh, Police Station Mashrakh, District- Saran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Lalti Devi, Wife of Jitendra Rai, resident of Village- Madarpur, Police Station Mashrakh, District- Saran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. B.K. Kunwar, Adv.
For the Informant : Mr. Bindhyachal Singh, Adv.
For the Opposite Party/s : Mr. Umanath Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

4 19-08-2017 Heard learned counsel for the petitioner learned
counsel for the informant and learned A.P.P.

The petitioner apprehends his arrest in Complaint Case No. 2079/2013, registered for the offences punishable under Section 302 and other sections of the Indian Penal Code.

The complainant filed a complaint case no. 3569/2011 on 19.12.2011 for the occurrence dated 17.12.2011 stating therein that she being the “Prakhand Pramukh” was participating in the meeting of Block Development Committee at 11.30 a.m., Block Development Officer, Masrakh, local M.L.A. and many other officials were present. At 2.30 p.m., Maheshwar



Singh, Upendra Kumar Singh and Mister Thakur and 8 to 10 unknown accused persons having armed with different weapons came there. Upendra Singh was armed with rifle. Nobody was the member of the Panchayat Samiti among these persons. It is further alleged that they entered into the meeting hall and started obstructing the procedure. Some scuffle took place. Munna Singh who is a criminal wanted to fire from his pistol, then one persons who was with Maheshwar Singh assaulted Munna Singh with stick on his hand. Maheshwar Singh snatched rifle from Upendra Singh and fired killing Munna Singh on the spot. On the basis of aforesaid complaint petition, the FIR being Mashrak P.S. Case No. 15/12 was registered under Section 302 and other sections of the Indian Penal Code and section 27 of the Arms Act. The police after investigation submitted final form finding the case false. The complainant filed protest petition. After acceptance of final form the case proceed on the protest-cum-complaint petition.

Learned counsel for the petitioner submits that the petitioner filed Mashrak P.S. Case No. 224/2011 under Section 302 and other sections of the Indian Penal Code and section 27 of the Arms Act. The informant of this case made specific allegation that Kedar Singh, Dinanath Singh and Sudhir Singh and others came there. Kedar Singh, Dinanath Singh and Sudhir Singh and



others fired which hit his body guard Munna Singh and Munna Singh died on the spot. The Police after investigation found the case true and submitted charge-sheet against Kedar Singh, Dinanath Singh, Sudhir Singh and others. It is further submitted that the complainant although alleged in complaint petition that Maheshwar Singh snatched rifle from the possession of the petitioner, but when she deposed on her solemn affirmation, she disclosed in para 11 of the S.A. that Maheshwar Singh snatched rifle from the possession of Kedar Singh and fired which hit Munna Singh and therefore, there is no allegation against the petitioner in the entire complaint petition.

On the other hand, Mr. Bindhyachal Singh learned counsel for the informant and the learned A.P.P. vehemently opposed the prayer for anticipatory bail of the petitioner and submitted that meeting of Block Development Committee was going on. The petitioner is not a member of any panchayat sammittee, but he went inside the meeting hall and disrupted the proceeding of the meeting. The petitioner has got criminal antecedent and he is accused in as many as four cases, as mentioned in para 3 of the bail petition. It is further submitted that the petitioner has filed supplementary affidavit stating the facts that he is also accused in one more case and the petitioner does not



deserve anticipatory bail.

On perusal of the records, it appears that the petitioner is the informant of Mashrak P.S. Case No. 224/11 in which he made specific allegation that Kedar Singh, Dinnath Singh, Sudhir Singh and others made indiscriminate firing killing the body-guard Munna Singh on the spot. The occurrence took place on 17.12.2011, but the Prakhand Pramukh/complainant filed complaint case after two days of the occurrence i.e. on 19.12.2011, the complaint petition was sent to the police station for registration and investigation, but the police after investigation submitted final form finding the case false. Learned Judicial Magistrate after accepting the final form proceeded the case on protest-cum-complaint petition filed by the complainant. The complainant of course, made allegation that the petitioner was armed with rifle and she stated Maheshwar Singh snatched rifle from the possession of the petitioner, but the complainant in her statement of solemn affirmation in para 11 disclosed that Maheshwar Singh snatched rifle from the possession of Kedar Singh. No specific allegation is made against the petitioner. There appears that the petitioner and Kedar Singh belong to two rival groups of politicians.

Considering the facts aforesaid, the petitioner above-



named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate 8th, Saran at Chapra in connection with Complaint Case No. 2079/2013, subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

(Prabhat Kumar Jha, J.)

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