

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44812 of 2017

Arising Out of PS. Case No.-96 Year-2017 Thana- MANJHI District- Saran

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Vivek Singh @ Vivek Kumar Singh, Son of Sanjay Kumar Singh, Resident of Village- Ekdengwa, Police Station- Manjhi, District- Saran (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Kanhaiya Prasad Singh, Sr. Adv.
		Mr. (Dr.) Rajesh Kumar Singh, Adv
For the Informant	:	Mr. Satrudhan Pandey, Adv.
For the State	:	Mr. J. N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 18-10-2017 Heard learned Sr. Counsel appearing on behalf of the petitioner, informant and learned APP for the State.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 147, 148, 149, 341, 323,324, 307 and 379 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case got initiated on the written report of Swaminath Prasad, alleging therein that on 09.05.2017, a Barat came from Siwan District, in which an Orchestra was being performed. In the meantime, all the accused persons including the petitioner, who were watching Orchestra,



repeatedly demanded a particular song to be sung by the Orchestra party. When it was protested by the Barat party, the accused persons started abusing the Barat party. Subsequently, the accused persons left the place and at 10.30 P.M. in the night when the Barat party came near the courtyard of the informant, then the accused persons came armed with lathi and sword and tried to rob their jewellery. It is alleged against this petitioner that he fired from country made pistol which hit the ear of Mintu Kumar, a resident of Bangara village, whereas, co-accused, Amarnath Singh assaulted on the head of the son of the informant with sword causing bleeding head injury, and rendered him unconscious. When the other son of the informant namely, Rajnikant, and his grand-son, Ravi Kant, came to rescue Santosh Kumar, all accused persons assaulted them with lathi. It is also alleged that the accused persons robbed jewellery worth Rupees One Lac.

It is submitted by learned Sr. Counsel appearing on behalf of the petitioner that for the occurrence dated 09.05.2017, the FIR was registered on 15.05.2017. Moreover, FIR reached to the Court of learned ACJM on 22.05.2017, hence, the very delay in institution of the FIR and delayed transmission of the FIR to the Court clouds the *bona fide* of the accusation. The only



specific accusation against the petitioner is of causing fire arm injury on the ear of Mintu Kumar. During investigation neither has it been ascertained that Mintu Kumar received any injury nor any injury report is available with the case diary which completely demolishes the prosecution case against the petitioner. The injury report of the informant reflects that he received simple injury.

Learned Counsel appearing on behalf of the informant submits that the accusation against the petitioner is specific to the extent that he resorted to fire and caused injury to Mintu Kumar. However, he submits that there is no injury report of Mintu Kumar on record.

Learned APP appearing on behalf of the State submits that injury report of Mintu Kumar alleged to have been caused by this petitioner is not on record and, the injuries of others have been found to be superficial, simple in nature.

Considering the un-explained delay in lodging of the FIR, delayed transmission of the FIR to the Court of learned ACJM and the fact that there is no medical report corroborating the accusation of firing by the petitioner, coupled with a statement made in paragraph no.3 of the petition that the petitioner has no criminal antecedent, let the above named



petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-V, Saran, Chapra, in connection with Manjhi P.S. Case No.96 of 2017, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Dinesh Kumar Singh, J)

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