

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.14420 of 2017

Arising Out of PS.Case No. -217 Year- 2013 Thana -FATEHPUR District- GAYA

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Akashdeep @ Guddu @ Dr. Akashdeep, S/o Ramswaroop Prasad,
Resident of Village Bakhari, P.S.- Fatehpur, District Gaya.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vinod Kumar, Adv.

For the Opposite Party/s : Mr. Sri Arbind Kumar Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 26-07-2017 Heard Shri A. K. Pandey, learned Counsel appearing on behalf of the petitioner, Mr. Sanjeet Kumar learned Counsel, appearing on behalf of the informant and Mr. J. N. Thakur, learned APP for the State.

The petitioner has renewed his prayer for anticipatory bail in a case registered under sections 147, 148, 149, 342, 307, 302, 450, 452 of the Indian Penal Code, section 27 of the Arms Act and sections 3/4 of the Explosive Substances Act.

Prosecution case, as per the written report of Daya Devi, dated 09.07.2013, submitted to the Officer In-charge, Fatehpur Police Station, is to the effect that the informant was sitting in her house at 11.30 PM on 08.07.2013, in the meantime, the accused persons came in mob and dragged out the husband of



the informant from his house. In the meantime, on the instigation of Rajeev Kumar Roy @ Manjay Kumar, Sanjay Kumar Roy @ Pappu Kumar, firing was resorted to, which caused injury on the chest of Ganesh Prasad, who subsequently succumbed to the injuries, on the spot. On hearing the gun-shot sound, Sama Devi, the wife of Suresh Prasad, came running on the spot, who was caught by Ram Swaroop Prasad, the petitioner Aakashdeep Prasad @ Guddu and co-accused Rakesh Kumar @ Pintu, when Ram Swaroop Prasad ordered his two sons Aakashdeep Prasad @ Guddu and co-accused Rakesh Kumar @ Pintu to fire, thereafter, the petitioner Aakashdeep Prasad @ Guddu fired causing injury on the abdomen and arm of Sama Devi, as a result, she fell unconscious and subsequently, succumbed to the injuries. Petitioner's earlier bail application was rejected by this Court, considering the fact that Ganesh Prasad died, due to the injury caused by the petitioner.

It is submitted by learned Counsel appearing on behalf of the petitioner that the petitioner has renewed his prayer for bail, since, the petitioner has not been sent up for trial on conclusion of investigation, as the accusation was not found true against the petitioner, but, differing with the final report the learned ACJM-Xth, Gaya, took cognizance under sections 147,



148, 149, 342, 307, 302, 450, 452 of the Indian Penal Code, and section 27 of the Arms Act, and directed for issuance of process against the petitioner. It is further submitted that on the alleged date of occurrence i.e. 08.07.2013, the petitioner was not present at the place of occurrence as his Tilak ceremony was going on. In the background of dispute between the Sanjay Kumar @ Pappu and Ganesh Prasad, the entire family members of the petitioner has been roped in the present case maliciously by the informant's side. Two other co-accused persons, who were on the duty of Railways were not present at the place of occurrence, on the alleged date of occurrence, but they have also been roped in the present case.

Considering the above discussed materials the petitioner was not sent up for trial, hence, he deserves consideration for grant of anticipatory bail.

Learned Counsel appearing on behalf of the informant submits that Sanjay Kumar @ Pappu, who is alleged to have fired on Ganesh Prasad, who succumbed to the injuries, although his bail application was earlier rejected by a bench of this Court it has now been again rejected, vide Criminal Miscellaneous No.3279 of 2017 on 22.02.2017.

Considering the fact that in the FIR specific



accusation of firing is against the petitioner causing fire arm injury to Ganesh Prasad, who succumbed to the injuries and the learned Magistrate, differing with the final form has taken cognizance under section 302 of the IPC and directed for issuance of process against the petitioner also, moreover, the prayer for bail of the other assailant has been rejected by a Bench of this Court, this Court is not inclined to revise the earlier order.

Accordingly, the prayer for anticipatory bail of the petitioner is rejected.

However, the present rejection will not come in the way of learned Judicial Magistrate, to consider the prayer for regular bail of the petitioner, keeping in view the fact that on conclusion of investigation the petitioner was not sent up for trial, if the petitioner surrenders before the learned Court below within a period of six in connection with Fatehpur P.S. Case No.217 of 2013, pending before the learned ACJM-XII, Gaya.

(Dinesh Kumar Singh, J)

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