

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22272 of 2017

Arising Out of PS.Case No. -241 Year- 2016 Thana -BEUR District- PATNA

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Vikky Kumar @ Vikky @ Vicky @ Vicky Kumar S/o Krishnadeo Rai
Resident of Village : - Shivchak, P.S. Gaurichak, District - Patna.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Pathak, Adv.
For the Opposite Party/s : Mr. Parmeshwar Mehta, APP
For the Informant Mr. Vijay Kumar Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

3 23-06-2017 Heard both sides.

The petitioner seeks bail in Beur P.S. Case No. 241/2016, registered for the offences punishable under Sections 302, 120(B), 34 of the Indian Penal Code and section 27 of the Arms Act.

The informant Jayanti Devi wife of the deceased Ram Chandra Jha alleged that her husband was doing business of Marble tiles in the name of Today Marbles at Beur. On 12.09.2016 at 8.00 p.m while her husband was returning after purchasing vegetable and reached near the house, Ranjit @ Bittu, Ranjan Kumar, Santosh Kumar, Bhola Kumar, Sukesh Kumar, Rohit Kumar @ Jitu and others whom she will identify after seeing



them, surround her husband. Two persons made indiscriminate firing on her husband. Ranjit Kumar @ Bittu fired at left armpit, Ranjan Kumar fired at left scapular region, Santosh Kumar fired at armpit. Bhola Kumar , Sukesh Kumar and Rohit Kumar @ Jitu also fired on hand, palm and elbow. The informant raised alarm, but the accused persons fled away after firing.

Learned counsel for the petitioner submits that the petitioner is not named in the F.I.R. The petitioner and Ajay Rai were apprehended in Beur P.S. Case No. 243/2016 registered under Section 399 and 402 of the Indian Penal Code and under different sections of the Arms Act. Ajay Rai is said to have confessed his guilt and disclosed that he along with petitioner also participated in the killing of Ram Chandra Jha the deceased. It is further submitted that during the course of investigation, none of the witnesses have disclosed the name of the petitioner, save except the confession of co-accused, but the informant after five months of the occurrence made her statement under Section 164 of the Cr.P.C. on 07.02.2017 and she disclosed the name of petitioner and others including the names of six accused persons whom she named in the F.I.R. The statement under Section 164 of the informant is made at very belated stage and thus carries no credential. It is further submitted that informant claimed to



identify other accused persons, but without putting the petitioner on Test Identification Parade after being arrested the informant disclosed the name of the petitioner in her statement under Section 164 Cr.P.C. without disclosing the fact that as to how she came to know the petitioner.

On the other hand learned A.P.P. as well as Mr. Vijay Kumar Sinha learned counsel for the informant vehemently opposed the prayer for bail of the petitioner. Mr. Sinha submitted that the petitioner also made firing. The children of the deceased and other witnesses have vividly stated about the story that indiscriminate firing was made. It is submitted that Dhirendra Kumar Pandey police officer, arrested the petitioner and Ajay Rai while they had assembled for committing dacoity and from possession of the petitioner arms and ammunitions were recovered. Ajay Rai confessed his guilt in para 34 of the case diary disclosing that the petitioner also participated in the killing of Ram Chandra Jha. It is further submitted that the Director General of Police and Sr. Superintendent of Police directed the police officials to conclude the trial expeditiously. The trial is likely to be concluded very soon.

On perusal of records it appears that the informant made her statement under Section 164 Cr.P.C., but it is not in dispute



that the informant named only six persons namely, Ranjit @ Bittu, Ranjan, Santosh, Bhola Kumar, Sukesh and Rohit @ Jitu and she made specific allegation against all the accused persons as to how they fired and the firing hit different places of the body of her husband. The informant did not even allege in the F.I.R. about any unknown persons, although, it disclosed that some other persons were also present there. She did not allege that unknown persons also fired. Even during the course of investigation son and other family members of the deceased did not disclose the name of the petitioner. It appears that Dhirendra Kumar Pandey, police officer arrested the petitioner and Ajay Rai and for that Beur P.S. Case No. 243/2016 was registered under Sections 399 and 402 of the Indian Penal Code and different sections of the Arms Act. Ajay Rai is said to have confessed his guilt. Later on, police also recorded confessional statement of Ranjit @ Bittu who is also said to have disclosed the name of petitioner. After recording the evidence, the Investigating Officer although recorded the statement of informant under Section 164 and the informant after five months of the occurrence in her statement disclosed the name of petitioner and others including the name of those six persons against whom she made specific allegation of firing in the F.I.R.

Considering the facts aforesaid and the fact that name of



the petitioner firstly come in the confessional statement of co-accused and thereafter informant disclosed the name of the petitioner in her statement under Section 164 Cr.P.C. that too after five months of the occurrence, although, neither in her fardbeyan nor in her subsequent statement disclosed the name of the petitioner and she did not make any specific allegation against any other unknown persons save and except six accused persons named in the F.I.R., the petitioner above-named, 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 Sessions Judge IIIrd, Patna in connection with Beur P.S. Case No. 241/2016.

(Prabhat Kumar Jha, J.)

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