

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31550 of 2018

Arising Out of PS. Case No.-893 Year-2011 Thana- JEHANABAD COMPLAINT CASE
District- Jehanabad

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Abhishek Upadhyay Son of Late Rajiv Ranjan Upadhyay Resident of Village
and P.O. - Aiyara, P.S. - Karpi, District - Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Mahendra Singh Son of Late Ram Sumiran Singh Village - Aiyara, P.S. -
Karpi, District - Arwal.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyavrat Verma
For the Opposite Party/s : Mr. Sunil Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

2 24-05-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks Anticipatory bail in connection
with Jehanabad Complaint Case No. 893 of 2011, registered
under Sections 302 read with 34 of the Indian Penal Code and
Section 27 of the Arms Act.

Informant in his fardbeyan has stated that on
22.02.2010 his father (deceased) after taking meal went to sleep
in the Khalihan for guarding the bags of paddy. It has further
alleged that at about 1.00AM he heard the sound of firing, on
hearing the sound of firing he saw towards the Khalihan but out
of fear closed the door. It has further been alleged that in the
morning at about 5.00 AM when the informant went towards the



Khalihan he saw his father lying in a pool of blood and on basis of his fardbeyan Karpi P.S. Case No. 19 of 2010 was instituted against unknown persons. The police investigated the matter and submitted final form dated 28.02.2011 against unknown persons as incident true but no clue.

The informant thereafter filed a protest petition giving rise to complaint case No. 893 of 2011 in which petitioner was made named accused. However, after enquiry conducted by the court below the complaint case was dismissed by the trial court vide order dated 28.11.2013 passed by Judicial Magistrate 1st class, Arwal.

The complainant thereafter filed a Revision petition before the Session Judge and by order dated 22.11.2014 passed by A.D.J.-1st, Jehanabad, order dated 28.11.2013 passed by the trial court was set aside and direction was issued to conduct further enquiry and pass a fresh order and accordingly the learned S.D.J.M., Arwal by order dated 11.04.2016 took cognizance of the offence under Section 302/34 of I.P.C. and Section 27 of the Arms Act and petitioner filed anticipatory bail petition before the Session Court, Jehanabad but same was rejected by 27.04.2018 by the Additional Sessions Judge 1st, Jehanabad.



It has been submitted by the learned counsel for the petitioner that the name of petitioner did not figured during entire investigation conducted by the police and there is land dispute between the parties and for which petitioner has been made accused in this case. Petitioner was well known to the informant but his name never transpired during investigation. It has further been submitted that petitioner has been falsely implicated in this case. It has further been submitted that petitioner has clean antecedent.

Considering the facts and circumstances of the case, prayer of Anticipatory bail is allowed and petitioner named above in the event of arrest or surrender before the court below within four weeks from today, the petitioner is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Sub-Divisional Judicial Magistrate, Arwal, in connection with Jehanabad Complaint Case No. 893 of 2011, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(S. Kumar, J)

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