

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.20074 of 2018**

Arising Out of PS.Case No. -110 Year- 2017 Thana -BANGAON District- SAHARSA

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Jawahar Yadav @ Jawahar Prasad Yadav S/o Late Bindeshwari Yadav, R/o  
Village- Bariyahi Basti, P.S.- Bangaon, District- Darbhanga.

.... .... Petitioner/s

Versus

The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Sameer Ranjan

For the Opposite Party/s : Mr. Smt Renu Kumari

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR**  
**SINGH**  
ORAL ORDER

02/ 09-04-2018

Heard learned counsel for the petitioner and

learned APP the State.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 302, 120B/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case as per the fard-beyan of Sanjeev Kumar recorded by Station House Officer of Bangaon P.S. on 12.10.2017 at 9.00 P.M. at Sadar Hospital, Saharsa is to the effect that on 12.10.2017 at 7.10 P.M. the informant was sitting at his door, while his elder brother, Bipin Yadav, was coming from Bariyahi market on a motorcycle but as soon as he reached near the house, three persons came on motorcycle



following him out of whom the informant identified one person as Munna Yadav, Son of Shambhu Yadav, but when the brother of the informant was just 50 meter away from the house then one of the three persons fired. Hearing the sound of gun firing, the informant reached at the spot to find his brother in injured condition. Thereafter the informant took his brother to the Primary Health Centre, Bariyahi from where he was referred to Sadar Hospital, Saharsa where the doctor declared him dead. The further case of the informant is that the brother of the informant Bipin Yadav had enmity with Subodh Yadav, Mantu Singh, Munna Yadav, Jawahar Yadav, the petitioner and Rana Gupta hence under conspiracy Subodh Yadav, Mantu Singh, Jawahar Yadav, the petitioner, Rana Gupta got the informant's brother killed by motorcycle borne criminals out of which Munna Yadav was identified.

It is submitted by learned counsel for the petitioner that even assuming the accusation in the FIR the shooters of the brother of the informant were three persons following him on motorcycle but the petitioner was not one of them. The petitioner's name sprang up since the brother of the informant had enmity with certain people, hence, he has been roped in this case as one of the conspirators. Subsequently, on



conclusion of the investigation the petitioner was not sent up for trial but differing with the final form, learned Magistrate took cognizance vide order dated 18.01.2018 under Sections 302, 120B/34 of the Indian Penal Code and Section 27 of the Arms Act and directed for issuance of process against the petitioner also. Statement to that effect has been made in paragraph 16 of the petition. The petitioner is a government employee as he works as Head Accountant in Koshi Command Area Development Agency. Though, the petitioner is accused in one other case i.e. Bangaon P.S. Case No. 54 of 2003 registered under Sections 147, 148, 149, 323, 448, 307, 302 of the Indian Penal Code and Section 27 of the Arms but he was summoned in the said case in pursuance to exercise jurisdiction under Section 319 of the Cr.P.C.

Learned APP, however, submits that the petitioner has been named in the FIR as one of the conspirators.

Considering the fact that the specific case of the informant in the FIR is that one of the three persons, who followed the brother of the informant, resorted to fire, the petitioner was not one of them, petitioner's name subsequently added in the last portion of the FIR as one of the conspirators due to the enmity and petitioner was not sent up for trial, 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 twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Saharsa in connection with Bangaon P.S. Case No. 110 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

**(Dinesh Kumar Singh, J)**

DKS/-

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