

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38795 of 2018

Arising Out of PS.Case No. -125 Year- 2018 Thana -ARA NAWADA District- BHOJPUR

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1. Monu Yadav son of Awadh Bihari Yadav, resident of Village-
Maulabagh, P.S. Ara Nawada, District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pranav Kumar

For the Opposite Party/s : Mr. Sri Arun Kumar Singh -5

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 11-07-2018

Heard learned counsel for the petitioner and

learned APP for the State.

The petitioner is apprehending his arrest in a case registered under Sections 341, 323, 379, 353, 307/34 of the Indian Penal Code and 25(i-b) 2/26/27 of the Arms Act and Sections 30(a), 45 of the Bihar Prohibition and Excise Act, 2016.

The prosecution case, in short, is that the informant, who is a constable, alleged that on 19-02-2018 at about 8.00 P.M. when he was on patrolling duty, he saw Monu Yadav (petitioner), Sanjay Yadav and another person standing near Sarita Medical Hall, Mahavir Chowk. The informant found the petitioner having a bag in his hand, in which, according to the informant, there was wine. The informant tried to catch the petitioner, thereupon, all other accused persons made protest. They assaulted the informant,



tore his uniform and snatched mobile as well as cartridges. It is also alleged that the petitioner fired, which did not hit the informant and cross-firing was made by the informant, which caused injury to the petitioner. The other co-accused fled away with pistol of the petitioner.

Counsel for the petitioner submits that it is a case and counter case. The petitioner is alleged to have received a gunshot injury in course of firing made by the informant. The police took this injured petitioner to the hospital, where he was treated. But he was never produced before the Judicial Magistrate by the police. Hence the petitioner was never taken into judicial custody. The counter case relates to the institution of a case against the police constable (informant) who had fired upon the petitioner. There is no substantive evidence to suggest the implication of the petitioner in this case. The counter case is annexure-2 to the present application which was instituted by the petitioner while he was admitted in the hospital. Nothing incriminating has been recovered from the conscious possession of the petitioner. The petitioner had no knowledge regarding the alleged incident. There is no compliance of Section 100 Cr.P.C.

On behalf of the State, it is submitted that the petitioner is named in the F.I.R.

Considering the aforesaid facts and circumstances,



let the petitioner, above named, in the event of arrest/surrender before the learned court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Bhojpur, Ara in connection with Ara Nawada P.S. Case No. 125 of 2018, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

A.K.V./-

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