

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49692 of 2018

Arising Out of PS.Case No. -41 Year- 2018 Thana -HABIBPUR District- BHAGALPUR

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Mehbal Alam, S/o Late Islam, R/o Vill.- Bhatuba Bari, P.S.- Habibpur,
District- Bhagalpur.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Davendra Kumar Pandey, Advocate.

For the Opposite Party : Mr. Rajendra Singh Shastriji, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 27-09-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner is apprehending his arrest in a case for
the offence registered under Sections 302 of the IPC and 27 of the
Arms Act.

The prosecution story, in brief, is that on 28.02.2018
at about 8.30 P.M., the informant alongwith his nephew Md.
Gulrej Alam @ Sheru was attending *Barat* of his brother-in-law
and going to Sahjangi Badrealampur. It is further alleged that
when the *Barat* procession reached at about 21.30 hours near
Sahjangi Mela Maidan then participating in the dance party, Md.
Mehbal Alam (petitioner) from his country made pistol shot at the
forehead of his nephew Md. Gulrej Alam, due to which, he was
declared 'brought dead' by the doctors of JLNMCH.

It has been submitted by learned counsel for the



petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering with the witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. The alleged occurrence has taken place while in a *Barat Procession*, dance was going on. In the meantime, unintentionally a firing was made by the petitioner in the said *Barat Procession*. The petitioner had no intention to commit murder of the deceased. The said firing made by the petitioner accidentally hit the deceased. Hence, it is, at best, a case for offence under Section 304 of the I.P.C.

On behalf of the State, it is submitted that the petitioner is named in the F.I.R. The specific allegation of firing is alleged against the petitioner causing death of the deceased.

Considering the aforesaid facts and circumstances, I am not inclined to grant anticipatory bail to the petitioner. The same is rejected in connection with Habibpur P.S. Case No. 41/18, pending in the court of learned A.C.J.M.-XII, Bhagalpur. Anyhow, if the petitioner surrenders and prays for regular bail in the court below, the same shall be considered and disposed of on its own merit without being prejudiced by this order of the Court.

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(Sudhir Singh, J)

