

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.61113 of 2018**

Arising Out of PS. Case No.-396 Year-2018 Thana- SIWAN CITY District- Siwan

Md. Azan @ Md. Azam, Son Of Md. Ali Ashgar @Asagar Ali, Resident of Village- Laxmipur, Siswan Dhala, Islamia Nagar, P.S. Siwan Town, District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Sada Nand Roy, Advocate  
For the Opposite Party/s : Mr. Akshay Lal Pandit, APP

**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**  
**ORAL ORDER**

3      06-11-2018                      Heard learned counsel for the petitioner, learned counsel for the informant and the learned A.P.P. for the State.

The petitioner seeks bail in Siwan Town P.S. Case No. 396 of 2018, instituted for the offences under Sections 302,120(B) of the Indian Penal Code and Section 27 of the Arms Act.

In the written report, it is alleged that on the date of occurrence an altercation had taken place between the brother-in-law of informant Md. Ibrahim (since deceased) and petitioner for crossing the electric wire from pole over the roof of Md. Ibrahim. The informant got information and arrived at the place of occurrence and found that an altercation was going on between his brother-in-law and petitioner. In the process of altercation, this petitioner took out revolver and fired on the chest of brother-in-law of informant Md. Ibrahim (since deceased) and fled away. The brother-in-law of informant died



on the spot.

Learned counsel for the petitioner submits that the statement of eye-witness has been recorded under Section 164 Cr.P.C., which is annexed as Annexure-2 series, wherein, they have stated different story. They have not supported the prosecution case.

Learned APP has submitted that in paragraph 28 of the case diary, there is statement of one independent witness that altercation had taken place between the deceased and petitioner, during this process firing took place in which the deceased was shot dead by the petitioner.

This Court find that at the stage of bail, the statement of other witnesses recorded under Section 164 Cr.P.C., is not substantive piece of evidence. The informant has lodged the fard-beyan as an eye-witness levelling specific allegation against the petitioner. The post-mortem report is available in the case diary. It supports the prosecution case. Therefore, this Court is not inclined to grant bail to the petitioner at this stage.

Accordingly, his prayer for bail is rejected.

The trial court is directed to expedite the trial and make attempts to conclude the trial as early as possible, preferably within a period of nine months from the date of receipt/production of a copy of this order.

**(Sanjay Priya, J)**

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