

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37661 of 2018

Arising Out of PS. Case No.-17 Year-2015 Thana- DEEPNAGAR District- Nalanda

Akhilesh Singh @ Akhilesh Kumar Singh, Son of Awadhesh Kumar Singh,
Resident of Village- Bijwan Par, Police Station- Deepnagar, District- Nalanda.
... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh, Adv.
For the Opposite Party/s : Mr. J. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 02-07-2018 Heard learned Counsels for the petitioner and learned APP
for the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 307/34 and 341 of the Indian Penal Code. Subsequently, Section 302 of the IPC was also added.

The prosecution case got initiated on the Fardbeyan of Arbind Singh, recorded by ASI of Police, Deepnagar Police Station at 9.45 PM, on 22.01.2015 at the emergency ward of PMCH to the effect that on 22.01.2015 at 06.30 P.M., the informant was returning home after getting his motorcycle repaired, when two accused persons on a Pulsar motorcycle overtook him and Gaurav Kumar and his younger brother made indiscriminate firing with pistol causing injuries on his



abdomen, right jaw and both the hands. On the basis of the statement of the informant, the FIR was registered against Gaurav Kumar and his younger brother.

Subsequently, the younger brother's name was traced as Munna Singh. It appears from the impugned order that the name of the petitioner sprang up during the investigation and subsequently, after the death of the victim that too in paragraph nos. 48, 49, 50, 51, 66, 82, 83 of the case diary as a conspirator since the parents of the FIR named accused person Suresh Singh was killed earlier in which the informant of the present case Arjun was involved. The petitioner is the parental uncle of the FIR named accused Gaurav Kumar.

It is submitted by learned counsel for the petitioner that even from the various paragraphs of the case diary quoted and relied by learned Sessions Judge it appears that the victim neither in the FIR, nor in the subsequent statement named the petitioner. The petitioner has also not been named by eye-witness Chintu Kumar, whose statement has been recorded in paragraph 5 of the case diary. Other eye witnesses, i.e. brother of the informant, Navin Singh, son of the victim Sashi Singh and guard of the DAV Public School, whose statements have been recorded in para 9, 10 and 13 of the case diary respectively



have not named the petitioner. Though, in para 43 of the case it has been recorded that after death of the victim, the other brother of the victim Praveen Kumar, has not named the petitioner, but at a later stage, only on suspicion accusation has been levelled against the petitioner. All these paragraphs of the case diary which have been quoted in the impugned order by the learned Sessions Judge has also been relied by the learned PP. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

It is submitted by Mr. J. N. Thakur, learned APP for the State that neither the eye witness, nor the informant has named the petitioner, but at a later stage, the name of the petitioner sprang up as a conspirator only on suspicion.

Considering the fact that the material on record clearly suggests that neither the informant nor any eye witness has named the petitioner and to that extent the APP has conceded this fact that the name of the petitioner has subsequently sprang up as a conspirator merely on suspicion, coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, 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 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned CJM, Biharsharif, Nalanda, in connection with Deepnagar P.S. Case No.17 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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