

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36251 of 2018

Arising Out of PS.Case No. -189 Year- 2016 Thana -UDWANTNAGAR District- BHOJPUR

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Manoj Yadav @ Manoj Kumar Yadav, Son of Sheo Nath Singh, resident of
Village- Lila Tola, Chakwa, Baulipur, P.S.- Bihia, District- Bhojpur.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Abhiprav Singh, Advocate
Mr. Binod Kumar Singh, Advocate
For the State : Mr. Ram Bilash Roy Raman, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 04-07-2018

Heard Mr. Abhiprav Singh, learned counsel for the
petitioner and Mr. Ram Bilash Roy Raman, learned Additional
Public Prosecutor for the State.

The petitioner seeks pre-arrest bail in connection
with Udwantnagar P. S. Case No.189 of 2016 registered under
Section 302 read with 34 of the Indian Penal Code and Section
27 of the Arms Act.

It is submitted by learned counsel for the petitioner
that though the petitioner is named in the first information
report, on completion of investigation while submitting charge-
sheet against co-accused Bharat Mahto and Kunwar Mahto, the
petitioner was not sent up for trial. The report submitted by the



police was also accepted by the learned Magistrate. However, after commitment of the case, when charges were framed and some of the prosecution witnesses were examined, an application was filed under Section 319 of the CrPC for summoning the petitioner as an additional accused and even without there being any new material, the court below mechanically summoned the petitioner in exercise of powers conferred under Section 319 of the CrPC in complete disregard to the ratio laid down by the Constitution Bench of the Supreme Court in **Hardeep Singh vs. State of Punjab & Ors. [2014(3) SCC 92]**.

On the other hand, learned Additional Public Prosecutor for the State submitted that it is a case under Section 302 of the Indian Penal Code. Initially, the petitioner was named as one of the assailants of the deceased. Hence, he does not deserve to be granted pre-arrest bail. He submitted that it is true that the petitioner has been summoned under Section 319 of the CrPC but that in itself cannot be a ground for grant of pre-arrest bail.

I have heard learned counsel for the parties.

Considering the facts and circumstances of the case and the submissions made above, in the event of arrest or



surrender before the court below within six weeks from today, the petitioner named above is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of 2nd Additional Session Judge, Bhojpur at Ara in Udwanthnagar P. S. Case No.189 of 2016, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J.)

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