

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28612 of 2018

Arising Out of PS.Case No. -379 Year- 2017 Thana -BIHIYA District- BHOJPUR

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1. Abinash Pandey, S/o Bharat Pandey, R/o village- Paharpur, P.S.- Bihiya
(Bahoranpur), District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate
Mr. Sheo Jee Mishra, Advocate

For the Opposite Party/s : Mr. Rajeev Nayan, Advocate
Mr. Suresh Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4/ 27-06-2018

Heard learned counsel for the petitioner and learned

APP for the State as well as counsel for the informant.

Petitioner apprehends his arrest in **Bihiya**
(Bahoranpur) P.S. Case No.379 of 2017 instituted for the
offence under Section(s) 341, 323, 324, 307, 386, 120-B, 302
Indian Penal Code and Section 27 of the Arms Act pending in the
Court of the **Additional Chief Judicial Magistrate, Bhojpur,**
Ara.

It is alleged in the written report that informant got
information from Satish Chandra Ojha that her husband has
sustained fire arm injury near the shop. She has further alleged in
the written report that her husband has enmity with this petitioner
and two other accused persons, namely, Abhishek Pandey and



Kedar Pandey as they were demanding articles from him on credit, which he had refused. It is further alleged that he was taken to hospital from where he was referred to PMCH. Her husband is not in a position to utter any word. The Doctor has stated that he has sustained injury at his back in the ribs.

Counsel for the informant and the State have submitted that during investigation police has recorded statement of Satish Chandra Ojha in para 9, wherein, he has stated that he has seen this petitioner running away armed with fire arm. Counsel for the State has further submitted that during investigation statement of nephew of the deceased was recorded in para 15 of the case diary, wherein, he has stated that he has seen this petitioner firing on the deceased. Similarly, son of the deceased, Guddu Pandey, has given his *fard-e-beyan* after the death of his father in para 62 of the case diary levelling specific allegation against this petitioner of causing fire arm injury to the deceased. In para 76, police has recorded further statement of Guddu Pandey, who has levelled specific allegation against the petitioner.

Post mortem report is available in the case diary, wherein, doctor has found one entry wound on the deceased over right scapular region below shoulder tip. The wound passes



through main non tissue and lacerating the nerve of spinal cord at the level of cervical fifth and sixth vertebra.

Counsel for the petitioner has submitted that the alleged occurrence has taken place on 21.11.2017 leveling suspicion against this petitioner. The statement of witnesses in para 15, 62, 76 are just after thought. There is no any whisper in the First Information Report that this petitioner has fired on the deceased.

Counsel for the petitioner has further submitted that Satish Chandra Ojha has not levelled specific allegation in his statement before the police in para 9 against the petitioner.

This Court is of the view that First Information Report is not encyclopedia of entire offence. It is just information given to the police to institute a case. The subsequent materials, which has come in this case in the case diary during investigation corroborated with the post mortem report, show that there is specific and direct allegation against this petitioner of causing fire arm injury to husband of the informant.

In such circumstances, this Court does not find it a fit case for grant of anticipatory bail.

Prayer of the petitioner for grant of anticipatory bail is **rejected**.



Petitioner may surrender before the Court below and seek regular bail, which shall be considered and disposed off in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

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