

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2261 of 2019

Arising Out of PS. Case No.-33 Year-2005 Thana- ALIPUR District- Gaya

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Krishna Sharma @ Krishna Kumar (Male), Aged about 45 years, Son of Baleshwar Sharma, Resident of village- Hasanpur, Police Station- Alipur, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No2

For the Opposite Party/s : Mr. Umanath Mishra

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 06-02-2019 Heard learned Counsel for the petitioner and learned
APP for the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 302 and 120B/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case as per the of fardbeyan of Santri Devi recorded by S.I., Navin Kumar, Alipur Police Station on 14.11.2005 at 4.30 P.M., is to the effect on the same day in the morning, co-accused Sunil Sharma and Ram Subhag Sharma came at her house armed with rifle and asked for her husband, brothers and son of the informant, when none of them were found, they went away. After half an hour, co-accused Nagendra Sharma again came and asked the informant's husband to



plough his agricultural field, which he denied to do. In the meantime, co-accused Ravi Sharma, Shashi Sharma and Pintu sharma came and forcibly took the informant's husband to plough their land. Thereafter, when the son of the informant came and she told everything to his son, thereafter both of them went in search of the victim. It is further alleged that they saw that on the instruction of petitioner, Krishna Sharma, co-accused Sunil Sharma and Ram Subhag Sharma surrounded the victim and co-accused Sunil Sharma resorted fire on the victim, as a result, victim fell down and died on the spot.

It is submitted by learned counsel for the petitioner that the case was registered in 2005, but ultimately the final form was submitted on 31.01.2011, whereby the petitioner was not sent up for trial. Moreover, the accusation of firing is not against the petitioner. It is further submitted that learned Magistrate differing with the final form, has taken cognizance against the petitioner on 05.12.2016. A statement to that effect has been made in paragraph no.8 of the petition which reads as follows:-

“8. That the learned Magistrate differed with the final form and finally cognizance has been taken against the petitioner on 05.12.2016 and petitioner has been summoned to appear in the case.”

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 learned APP for the State that the petitioner is named in the FIR. Moreover, the accusation of firing is against co-accused Sunil Sharma and Ram Subhag Sharma.

Considering the fact that the accusation of firing has not been levelled against the petitioner and the petitioner not being sent up for trial, 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 **ACJM-II, Gaya** in connection with **Alipur P.S. Case No.33 of 2005**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

Deepak/Rahul/-

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