

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5708 of 2019

Arising Out of PS. Case No.-141 Year-2018 Thana- PHULWARIA District- Begusarai

Suman Kumar, aged about 32 years, Male, Son of Sunil Rai @ Sunil Singh,
Resident of Village - Malti, P.S.- pphulwaria, Distt.- Begusarai

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mr.Nilesh Kumar, Advocate
For the Opposite Party/s	:	Mr.Jai Narain Thakur, APP
For the Informant	:	Mr. Pushpendra Kumar Singh, Advocate Mr. Ashok Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 01-02-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since 30.11.2018 in a case registered for the offences punishable under Sections 323, 307 and 341/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case as per the fardbeyan of Runjhun Rai recorded by S.I., Vivek Bharti, Station House Officer of Phulwaria P.S. on 10.10.2018 at 9.00 A.M. in Alexia Hospital is to the effect that that on 09.10.2018 at 6.00 P.M., on the shop of the informant, six persons including the petitioner came and started demanding money and abusing the customers. Thereafter, the accused persons resorted to fire, as a result, the informant started fleeing from the scene when they caught hold



of the informant and thereafter, it is alleged that the petitioner, Suman Kumar and co-accused Tuntun Kumar fired at the informant causing bleeding injury.

It is submitted by learned counsel for the petitioner that the prosecution case gets clouded from the fact that for the said incident, the Officer-in-Charge of Phulwaria P.S., Vivek Bharti, who recorded the fardbeyan of the present informant, submitted a written report to the Judicial Magistrate, First Class, Begusarai is to the effect that on 09.10.2018 at 7.00 P.M., he received information that there was firing on NH-28 near Malti and when reached at the spot at 7.15 P.M., he found a person in injured condition and thereafter, he took him to Alexia Hospital and in presence of two witnesses two live cartridges were recovered from his pocket. Hence, the FIR was registered under the provisions of the Arms Act against the informant on 09.10.2018 at 11.30 P.M and thereafter, in order to save his own skin, fardbeyan of the informant was recorded on 10.10.2018. The FIR lodged by the Police Officer does not reflect the nature of injury caused to the informant. It appears from the impugned order that in spite of specific order, the injury report was not produced by the prosecution before the learned Court below.

It is submitted by learned counsel for the informant



that there is specific accusation of firing against the petitioner and co-accused Tuntun Kumar. The informant has received firearm injury on his face which is corroborated from the CT Scan report dated 12.10.2018 issued by Allexia Hospital along with the prescription of doctor and it also appears that the informant has lost his one eye due to the firearm injury. The photocopy of the report of the CT Scan report along with prescription has been produced by the learned counsel for the informant dated 12.10.2018. and the petitioner is accused in two other cases.

Considering the fact that the FIR has been lodged with delay of 24 hours when the FIR lodged by the Officer-in-Charge of Phulwaria P.S. was registered on the date of the occurrence on 09.10.2018 which reached to the Court of learned CJM on 10.10.2018, the medical prescriptions and the medical report brought on record suggest that the informant was for the first time examined by the doctor on 12.10.2018 which clouds the bonafide of the accusation coupled with the fact that the accusation of firing being levelled against two persons, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial



Magistrate, Begusarai in connection with Phulwaria P.S. Case
No. 141 of 2018.

(Dinesh Kumar Singh, J)

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