

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.12783 of 2019

Arising Out of PS. Case No.-147 Year-2016 Thana- BITHAN BAZAR District- Samastipur

RAMUDGAR YADAV @ BHAGAT YADAV, Son of Late Lakhan Yadav
Resident of Village- Gaja Bazar, P.S.- Bithan, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Keshav Srivastava, Sr. Adv.

Mr. Sarbottam Kumar Sarkar

For the Opposite Party/s : Mr.Dinesh Singh, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

4 02-07-2019 Heard learned Senior Counsel for the petitioner and
learned Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises out of Bithan Police Station Case No. 147 of 2016, disclosing offences under Sections 307/34 of the Indian Penal Code and Section 27 of the Arms Act.

The allegation against the petitioner, in the First Information Report, is that the informant was going on a motorcycle along with his friend, in which the informant was a pillion rider and when the motorcycle reached near a small bridge, one bullet was shot at the informant from behind, which hit the informant near his shoulder and after receiving the bullet



injury, when the informant turned behind, he saw the petitioner and two others persons were on a motorcycle and after making fire, they fled away.

Learned Senior Counsel for the petitioner submits that the petitioner has been falsely implicated in this case due to the political rivalry inasmuch as the wife of the informant had contested the election, in which the petitioner had campaigned against her wife. He further submits that even upon perusal of the First Information Report, it would be apparent that the occurrence had taken place in the evening when there was darkness and when the informant turned behind, he only saw that three persons along with the petitioner were fleeing away and it was difficult to see in dark that the petitioner had fired upon the informant.

After referring to the statement made in the case diary, learned Senior Counsel submits that the informant was a pillion rider on a motorcycle and the person who was driving the motorcycle has given the statement that after receiving the bullet injury, the informant fell down in a ditch and he did not see the person, who fired upon the informant because it was dark. He further submits that the occurrence has allegedly taken place on 18.11.2016, at 06:30 PM, in the district of Samastipur,



where he received the primary treatment and thereafter he was shifted to a private hospital at Patna, where his fardbayan was recorded by the police on 19.11.2016, in which he has taken the name of the petitioner as the assailant. The informant did not disclose the name of the petitioner at the first instance when he was being treated at Samastipur and the petitioner has been implicated as an afterthought due to political rivalry. Referring to paragraph 10 of this application, learned Senior Counsel submits that the informant is a hardcore criminal and a number of criminal cases are registered against the informant, including the case under Section 399, 395, 307 of the Indian Penal Code and also under the provision of the Arms Act, details of five such cases are given in this application. Learned Senior Counsel further submits that the alleged bullet recovered from the body of the informant was sent back by the Paras Hospital and the circumstances as to how the bullet was sent by the Paras Hospital is not clearly explained inasmuch as the informant was being treated at Paramount Care Hospital, New Bye Pass Road, Patna. This creates doubt about the prosecution case

After having heard learned Senior Counsel for the petitioner and learned Additional Public Prosecutor for the State and taking into consideration the fact that the informant has



criminal antecedent and appears to be a history-sheeter and there is no specific allegation of firing by the petitioner, but the informant has merely said that he was fired upon from behind and when he turned back, he saw three persons along with the petitioner, riding on a motorcycle and fleeing away and further the person who was driving the motorcycle, upon which the informant was a pillion rider, has made the statement that after receiving he bullet injury, the informant fell down in a ditch and did not see the assailant due to darkness, I am inclined to grant the petitioner privilege of anticipatory bail.

Accordingly, this application is allowed.

Let the petitioner, Ramudgar Yadav @ Bhagat Yadav, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Sub Divisional Judicial Magistrate, Rosera, Samastipur, in connection with Bithan Police Station Case No. 147 of 2016, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner shall present himself before the police/Court, as the case may be, as



and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bond shall be liable to be cancelled.

Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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