

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22162 of 2019

Arising Out of PS. Case No.-506 Year-2017 Thana- SAUR BAZAR District- Saharsa

JAIKANT YADAV, Son of Sonelal Yadav, R/o village- Paharpur, P.S.- Sour
Bazar, District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Chandra Mohan Jha
For the Opposite Party/s : Mr.Manoj Kumar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 05-09-2019 Heard learned Counsel for the petitioner and
learned Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail,
arises out of Sour Bazaar (Patarghat O.P.) Police Station Case
No. 506 of 2017, disclosing offences under Sections 307/326/34
of the Indian Penal Code and Section 27 of the Arms Act.

The allegation against the petitioner, as per the First
Information Report, is that on the date of occurrence, i.e. on
02.11.2017, the informant, along with one Vishwanath Sah, was
going from Satsang on a motorcycle, which was intercepted by
another motorcycle, on which the petitioner was sitting and the
petitioner opened fire, which hit the pillion rider Vishwanath
Sah, causing bullet injuries in the right side of chest and hip of
Vishwanath Sah.

Learned Counsel for the petitioner submits that the



petitioner has no criminal antecedent and has falsely been implicated in this case due to village politics inasmuch as the wife of the petitioner is the Pramukh of Patarghat Panchayat and the informant is the husband of one of the Members of the Patarghat Panchayat Samiti; whereas the injured, Vishwanath Sah, is one of the Member of the Patarghat Panchayat Samiti. He submits that the petitioner has been implicated in the present case at the behest of other Members of Patarghat Panchayat Samiti and has unnecessarily been dragged in this case.

Learned Counsel for the petitioner submits that the matter was earlier taken up by this Court on 09.04.2019 and the case diary was called for and the same was received in this Court. The matter was again taken up on 01.08.2019 and a report from the Investigating Officer of the present case was called for as to whether the statement of the injured, Vishwanath Sah, was recorded in course of investigation or not.

A report, in that regard, was submitted by the Investigating Officer to the Superintendent of Police, Saharsa, who, by letter no. 4007, dated 10.08.2019, forwarded the same to this Court along with one page of the case diary, containing the statement of the injured, Vishwanath Sah, and the page number of the said one page of the case diary, having the



statement of the injured, is 14245634.

On submission made by learned Counsel for the petitioner that in the carbon copy of the case diary, at paragraph 34 (bearing page number 14196322), there is a different statement recorded by the Investigating Officer, which relates to the raid conducted by the Investigating Officer in the house of the petitioner on 10.03.2018.

On the submission made by learned Counsel for the petitioner that there is difference in paragraph 34 recorded earlier in the carbon copy and paragraph 34, sent subsequently by the Investigating Officer, having the statement of the injured Vishwanath Sah and the page number of the case diary are also not matching, a report was, accordingly, called for from the Superintendent of Police, Saharsa, by order, dated 20.08.2019, which has been received.

Learned Counsel for the petitioner submits that after this Court has called for a report from the Investigating Officer regarding the fact as to whether the statement of the injured Vishwanath Sah was recorded or not on 01.08.2019, the Investigating Officer has manufactured the statement of the injured Vishwanath Sah in a separate case diary having different page number, giving the same date, i.e. 10.03.2018, and



mentioned paragraph 34 therein.

After having heard learned Counsel for the parties and perusing the report of the Superintendent of Police, Saharsa, it appears that the Superintendent of Police, Saharsa, had called for an explanation from the Investigating Officer, who has submitted his explanation before the Superintendent of Police, Saharsa, that due to human error, there is difference between the page number of the case diary inasmuch as due to pressure of raid, the statement of the injured was not recorded in the carbon copy of the case diary sent earlier. However, from perusal of the report of the Superintendent of Police, Saharsa, it appears that the Superintendent of Police, Saharsa, is not satisfied by the explanation submitted by the Investigating Officer and the Investigating Officer has been suspended vide memo no. 4351, dated 02.09.2019.

In view of the report of the Superintendent of Police, Saharsa, it appears that there is difference in the statement made in paragraph 34 of the carbon copy of the case diary sent earlier and paragraph 34 of the case diary sent pursuant to an order of this Court, dated 01.08.2019 and considering the fact that the petitioner has no criminal antecedent, I am inclined to grant the petitioner privilege of



anticipatory bail.

This application is, accordingly, allowed.

Let the petitioner, Jaikant Yadav, in the event of his arrest or surrender before the Court below within four weeks, 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, Saharsa, in connection with Sour Bazaar (Patarghat O.P.) Police Station Case No. 506 of 2017, 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.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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