

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53996 of 2019

Arising Out of PS. Case No.-39 Year-2019 Thana- FATEHPUR District- Gaya

Vikram Kumar @ Vikram Kumar Yadav Son of Krishan Dev Prasad Yadav
Resident of Village - Salaiyakala, Tola Adharkichak, P.S.- Fatehpur, District -
Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vijay Anand, Advocate
For the State	:	Mr. Md. Arif, APP
For the Informant	:	Mr. Rabindra Nath Tiwari, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 20-11-2019

Heard learned counsel for the petitioner; learned
APP for the State and learned counsel for the informant.

2. The petitioner seeks pre-arrest bail in connection
with Fatehpur PS Case No. 39 of 2019 dated 03.02.2019
instituted under Sections 302/34 of the Indian Penal Code and
27 of the Arms Act.

3. The petitioner, along with six others, is accused
of firing on the deceased, who was the brother of the informant
leading to his death.

4. Learned counsel for the petitioner submitted that
there is discrepancy between the version in the FIR with that of
two eye witnesses whose statement has been recorded by the



police during investigation, inasmuch as, in the FIR it has been stated that the assailants were riding on four motorcycles whereas two witnesses have stated that only two persons riding on one motorcycle had come, out of which the person who was sitting at the back had fired. It was further submitted that the petitioner had contested the election against the wife of the deceased in which she was elected as *Upmukhiya* and, thus, there was rivalry between the two due to which he has been falsely implicated. Learned counsel drew the attention of the Court to copy of the certificate issued by Maxwell Super Multispeciality Hospital Private Limited, Varanasi to indicate that on the date of occurrence, i.e., 02.02.2019, he was admitted there.

5. Learned APP, from the case diary, submitted that except for two witnesses who have supported the defence story, who are related to the petitioner, the other witnesses have supported the prosecution story. It was submitted that in the postmortem also the report of the doctor corroborates the allegation made in the FIR.

6. Learned counsel for the informant, who has also filed counter affidavit, submitted that the alibi of being admitted in Varanasi is false as under the Right to Information Act, when



he had sought information from the Hospital, a categorical reply was given that the petitioner was neither seen as out patient nor admitted in the Hospital and there were no records relating to him.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to allow the prayer for pre-arrest bail to the petitioner.

8. Accordingly, the application stands dismissed.

9. However, if the petitioner surrenders before the Court below and prays for bail, within four weeks from today, the same shall be considered on its own merits, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J)

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