

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.76699 of 2018

Arising Out of PS. Case No.-28 Year-2010 Thana- PALI District- Jehanabad

=====

Surendra Yadav @ Surendra Prasad @ Kaluta S/o Kishun Yadav, Resident of
Village- Saidabad, P.S.- Pali, District- Jehanabad.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Verma

For the Opposite Party/s : Mr.Sri Mithilesh Kumar Khare

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 25-01-2019 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The petitioner is languishing in custody since
17.07.2018 in connection with Pali P.S. Case No.28 of 2010,
corresponding to G.R. No.1088 of 2010 registered for the
offences punishable under Sections 147, 148, 149, 341, 342, 302
and 27 of Arms Act.

Prosecution case as per the fardbeyan of Ramesh
Prasad recorded by Pali P.S. on 21.05.2010 at 6.30 A.M., is to
the effect that while the informant was sleeping on the roof
along with wife, father and cousin, Nanhak Yadav, and due to
crumbling of the roof tiles, the wife of the informant woke up
and saw five named accused persons including this petitioner
armed with weapon. Due to fear, they could not utter any word



when the petitioner fired by a gun on informant's father and the co-accused Awadhesh Yadav fired by a country made Carbine on his father's chest. It is also alleged that they also fired on Nanhak Yadav which luckily did not hit him and he ran away. His father died due to gun hot injuries.

It is submitted by learned counsel for the petitioner that the petitioner had inimical terms with the FIR named informant and he had lodged a case against the informant at earlier point of time. It is further submitted that neither the informant nor the informant's wife has supported the accusation against the petitioner. During the investigation, the police submitted final form but differing to the final form, learned A.C.J.M., Jehanabad vide order dated 05.01.2006 took cognizance. At the time of taking cognizance also, the notice was issued to informant but he failed to appear. The post-mortem does not suggest that the father of the informant received any injury.

Learned APP after going through the case diary submits that the specific accusation against the petitioner is firing by rifle. However, the petitioner has been sent up for trial. He further submits that the case diary does not suggest any reason for not recording statement of informant's wife



during investigation.

Considering the fact that the petitioner was sent up for trial and the petitioner was the informant of the case lodged against informant side at earlier point of time when his brother was killed, let the above named petitioner be enlarged on bail on furnishing bail bond of Rs.10000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, Ist Class, Jehanabad in connection with Pali P.S. Case No.28 of 2010, corresponding to G.R. No.1088 of 2010.

(Dinesh Kumar Singh, J)

sanjeev/-

U		T	
---	--	---	--

