

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76264 of 2018**

Arising Out of PS. Case No.-29 Year-2013 Thana- RUNISAIDPUR District- Sitamarhi

Sanjiv Patel @ Sanjeev Patel @ Sandeep Kumar Son of Ram Krishna Patel @
Bhutta Patel, Residence of Village- Suhai Garha, P.S.- Runni Saidpur,
District- Sitamarhi.

... .. Petitioner.

Versus

The State Of Bihar

... .. Opposite Party.

Appearance :

For the Petitioner : Mr. Ranjeet Kumar Mishra, Advocate.
For the State : Mr. Nirmala Kumari, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

5 07-05-2019 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner apprehends his arrest in connection
with Runnisaidpur P.S. Case No.29 of 2013 registered under
Sections 326 and 307/34 of the Indian Penal Code besides
Section 27 of the Arms Act, pending in the court of the Chief
Judicial Magistrate, Sitamarhi.

The accusation is that on 14.12.2013, the informant
Md. Rahim, the Chowkidar of Runnisaidpur Police Station, was
present at Balua Chowk, then he heard the sound of firing at the
door of Kamleshwar Prasad Yadav and the people started to flee
away and he also fled away. After 10 minutes of closing of
firing, the villagers again started to come there. Thereafter, he



went at the house of Kamleshwar Prasad Yadav, then found that Akhileshwar Prasad Yadav was lying on the ground near the pond and blood was oozing out from his body. Kamleshwar Prasad Yadav was lying at his door and the blood was also oozing out from his body. The family members of Kamleshwar Yadav disclosed that while Kamleshwar Yadav was loading the wood on the tractor, in the meantime, two unknown persons came and started firing indiscriminately at Kamleshwar Yadav, then his brother Akhileshwar Yadav came in rescue, then both the two unknown persons opened fire at them. Thereafter, with the help of villagers, both were taken to S.K.M.C.H. At the place of occurrence, four empty cartridges, one live cartridges and the posters of extremists were found.

Learned counsel for the petitioner submits that it would appear from the F.I.R. that the present case was lodged against two unknown under Sections 326 and 307/34 of the Indian Penal Code and Section 27 of the Arms Act but, after the death of Kamleshwar Prasad Yadav, on 19.03.2013, Section 302 of the Indian Penal Code was added in this case. The statement of Akhileshwar Yadav was recorded before the police, who disclosed the name of the petitioner without any specific overt act.



On the other hand, learned A.P.P. for the State submits that Akhileshwar Prasad Yadav, who is injured and the brother of Kamleshwar Prasad Yadav, has stated in his statement, as detailed in paragraph-23 of the case diary, that four persons came at his door, out of them Pappu Khan shot fire at his brother, then he caught hold of Pappu Khan. Thereafter, the petitioner and others, who were present nearby the place, came and get to set free Pappu Khan.

Having considered the facts and the circumstances of the case and the nature of allegation, I am not inclined to extend the privilege of pre-arrest bail to the petitioner. Accordingly, the prayer of the petitioner for grant of pre-arrest bail stands rejected. However, the petitioner is directed to surrender before the court below and pray for regular bail, which shall be considered by the court below on its own merit without being prejudiced by the order of this Court.

(Rajendra Kumar Mishra, J)

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