

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68530 of 2018

Arising Out of PS. Case No.-10 Year-2001 Thana- KUNDWACHAINPUR District- East
Champaran

=====

Md. Rahamtullah Son of Mohamddin Resident of Village-
Mahuawa,P.S.Dhaka,Distt.-East Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma
Mr. Abhishek Kumar
For the Opposite Party/s : Mr.Sri Amit Kumar Rakesh

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 15-04-2019 Heard learned counsels for the parties.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 147,148,149 and 302 of the IPC and Section 27 of the Arms Act.

The prosecution case as per the Fardbeyan of Bathu Sah recorded on 15.4.2001 by the S.I. Bankteshwar Ram, SHO, Kundwa Chainpur Police Station, is to the effect that on 14.5.2001,i.e. on the day of election of Grampanchyat at about 12.00 A.M., the informant and his nephew were standing in queue to cast vote at the Polling Booth situated at Primary School, Dostiya, in the meantime, the petitioner who was candidate of Mukhiya came along with 30-40 unknown armed with gun, rifle and Farsa and started firing and tried to capture



the booth. On protest being made by the nephew of the informant, namely, Ram Babu, the petitioner is alleged to have fired upon the nephew of the informant, as a result he died.

It is submitted by learned counsel for the petitioner that on conclusion of investigation, the petitioner was not sent up for trial. It is further submitted that the FIR was registered on 15.4.2001 when the final report was submitted on 30.9.2014 but differing with the final form, cognizance was taken for the offences punishable under Sections 147,148,149 and 302 of the IPC and Section 27 of the Arms Act by the learned SDJM, Sikarahana vide order dated 14.3.2016, as contained in Annexure 2. It is also submitted that in the Statement under Section 164 of the Cr.P.C., the witnesses have not supported the prosecution case and the informant has not named the petitioner as assailant.

Learned APP submits that there is substantial accusation against the petitioner in the FIR and differing with the final form, cognizance has been taken but he fails to explain as to why the cognizance order has been passed after ten years.

Considering the fact that the petitioner was not sent up for trial and the final report was submitted on 30.9.2014 but the cognizance order was passed on 14.3.2016, let the



petitioner above named be released on anticipatory bail in the event of arrest or surrender within 12 weeks on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned SDJM, Sikrahana in connection with Kundwachainpur P.S. Case No.10 of 2001 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

anil/-

U			
---	--	--	--

