

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73869 of 2019

Arising Out of PS. Case No.-286 Year-2019 Thana- KHUSRUPUR District- Patna

Sunil Kumar Singh @ Siddhi Singh Son of Baleshwar Singh Resident of
Village - Nuruddinpur, Khusrupur, P.S.- Khusrupur, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kumar Rajeev, Advocate

For the Opposite Party/s : Mr.Rabindra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 25-11-2019 Heard learned counsel for the petitioner, learned
counsel for the informant and learned counsel for the State.

The petitioner apprehends his arrest in **Khusrupur**
P.S. Case No. 286 of 2019, registered for the offence punishable
under Section 147, 148, 149, 341, 323, 307, 302, 504 of the
Indian Penal Code and section 27 of the Arms Act.

It is alleged that petitioner along with others
committed murder of informant's elder brother by firing on his
head.

It is submitted by learned counsel appearing on behalf
of petitioner that petitioner has falsely been implicated in this
case. Specific allegation of firing upon the deceased, is against
co-accused Sanjay Singh and Kranti Singh. There is no
allegation of any overt act against this petitioner. Petitioner is a
retired Sub-Inspector and on the alleged date of occurrence



petitioner was at Ranchi. Both parties are Gotia. Petitioner has got no criminal antecedent.

Learned counsel for the informant raised preliminary objection regarding the maintainability of bail application on the ground that since process under Section 82 of the Code of Criminal Procedure has already been initiated against this petitioner, so the same is not maintainable and in support of the same, he has relied upon the judgment reported in **2014 (2) SCC 171 (State of Madhya Pradesh vs. Pradeep Sharma)**. He further submitted that a case under section 302 of Indian Penal Code is pending against this petitioner and there is allegation that petitioner also participated in the alleged crime.

On the other hand, learned counsel for the petitioner has submitted that while considering a similar matter, a Coordinate Bench of this court vide order dated 07.02.2018 passed in Cr. Misc. No. 62208 of 2017 has observed that **only in cases where the accused persons have been declared as a proclaimed offender in terms of Section 82 of the Criminal Procedure Code, such accused persons are not entitled to the relief of anticipatory bail.**

Considering the facts aforesaid and the fact that **petitioner has not been declared a proclaimed offender as yet**, hence, the petitioner above-named, in the event of his arrest/surrender before the court below within a period of six weeks from receipt/production of a copy of this



order, is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned **Judicial Magistrate Ist Class, Patna City, Patna** in connection with **Khusrupur P.S. Case No. 286 of 2019**, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure with further conditions:-

(i) The petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(ii) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(Prabhat Kumar Singh, J)

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