

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6761 of 2020

Arising Out of PS. Case No.-223 Year-2019 Thana- HILSA District- Nalanda

UDAY GOPE S/o Late Sidheshwar Gope R/o village- Gosai Math, P.S.-
Hilsa, District- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Appearance :

For the Petitioner/s	:	Mr.Anil Kumar Singh, Adv
For the Opposite Party/s	:	Mr.Akshay Lal Pandit, APP
For the Informant	:	Mr. Vibhuti Ranjan Sonvadra, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

4 07-12-2020 Heard learned counsel for the parties.

Petitioner apprehend his arrest in a case registered for the offence punishable under Sections 302, 120(B)/34 of the Indian Penal Code and Section 27 of the Arms Act.

Informant is the widow of the deceased who in her written complaint has alleged that on 25.05.2019 while her husband had gone to collect paper, in the meanwhile she came out of the house in search of her husband to send her nephew for tuition and saw from a distance of 100 gaz that three miscreants Amar Kumar, Kaushal Kumar and Satyaman Kumar sitting on a motorcycle and Uday Gope (petitioner) was sitting by the side of road and all the three miscreants came down from the



motorcycle and caught her husband and accused Amar Kumar fired upon her husband on his chest as a result of which he fell down and died and thereafter all three miscreants fled away on motorcycle and Uday Gope(petitioner) also fled away and on her raising alarm, her father who was working in the field also saw three miscreants fleeing away after killing her husband and it is further alleged that accused Shiv Kumar Yadav threatened her husband that he will kill him before going to jail and she apprehends that Shiv Kumar Yadav hatched a conspiracy from jail to kill her husband.

It is submitted on behalf of petitioner that he is innocent and has been falsely implicated in this case due to animosity and village rivalry. The incident is of 6:00 am and FIR has been lodged at 4:00 pm. No overt act has been alleged against him and he has been made accused only on suspicion and due to previous enmity he has been implicated in this case by the Informant and his family. Informant does not appears to be the eye witness of alleged occurrence. FIR was instituted on written complaint after post mortem was conducted.

Petitioner has got no criminal antecedent.

Informant has appeared and has filed affidavit stating therein that process under Section 82 of the Cr.P.C has been



issued against the petitioner on 30.06.2019 and thereafter process under Section 83 of Cr.P.C for attachment of the property of petitioner has been issued by order dated 19.09.2019, passed by learned ACJM, Hilsa and as such anticipatory bail application of petitioner is not maintainable.

In view of issuance of process under Section 82 & 83 of Cr.P.C against the petitioner, the present application for anticipatory bail is not maintainable and is, accordingly, dismissed. However, if petitioner surrenders within 4 weeks before trial court, his application for grant of regular bail be considered on same day on its own merit without being prejudiced by this order.

(S. Kumar, J)

ranjan/-

U			
---	--	--	--

