

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77454 of 2019

Arising Out of PS. Case No.-88 Year-2019 Thana- MAHESHKHUNT District- Khagaria

DIWAKAR YADAV Son of Late Damodar Yadav Resident of Village-
Pakrail, Mungeria Tol, P.S.- Maheshkhunt, District- Khagaria

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Binod Kumar

For the Opposite Party/s : Mr.Ramchandra Sahn

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 06-03-2020 Heard the learned counsel for the petitioner and the
learned APP for the State.

This is an application for grant of anticipatory bail in connection with Maheshkhunt P.S. Case No. 88 of 2019, registered for the offence punishable under Sections 307, 506 of the Indian Penal Code and Section 27 of the Arms Act.

The case of the prosecution according to the informant is that when the informant had come out of his house for going to Pakki Road and had crossed the bamboo orchard, the petitioner herein had suddenly arrived there and had fired a gunshot resulting in gunshot injury to the informant.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he is having a clean antecedent and he has been falsely implicated in the present case on account of



previous enmity. It is further submitted that that the Assistant Sub-Inspector of Police has submitted a report that the petitioner was not present at the place of occurrence and the people, who were present there, have got no knowledge as to who had fired the gunshot, hence, it is submitted that the petitioner's complicity is not present in the alleged occurrence, thus, he should be granted the privilege of anticipatory bail.

I have heard the learned counsel for the petitioner, perused the materials on record as also gone through the case diary, which was called for by this Court. A bare perusal of the case diary would show that though in paragraph no. 36, a letter has been written by the Assistant Sub-Inspector of Police, namely, Subash Chandra Yadav dated 13.10.2019 to the learned APP, Khagaria wherein he is stated to have narrated the alleged occurrence as also has stated that upon secretly obtaining information from the villagers, it has transpired that the petitioner was not at his home on the alleged date and time of occurrence and since a lot of crowd was present at the place of occurrence, it could not be ascertained as to who had fired gunshot on the informant, however, in paragraph nos. 6, 7 and 8 of the case diary, the same Assistant Sub-Inspector of Police, Maheshkhunt Police Station, namely, Subhash Chandra Yadav,



has recorded the evidence of three independent witnesses, who have all substantiated the allegation of the petitioner having fired gunshots on the informant resulting in gunshot injuries on him. In paragraph no. 16, the injury report of the Doctor has been mentioned, which also corroborates that the informant has received gunshot injury. In paragraph no. 27 of the case diary, the said ASI has recorded the supervision note of the police, Sub-Divisional Officer of Sirisata Police Station, sent vide letter dated 15.8.2019 wherein the entire incident and the materials collected during the course of investigation has been mentioned and it has been concluded that the allegations levelled against the petitioner under Sections 307/506 of the Indian Penal Code and Section 27 of the Arms Act appears to be true as against the petitioner herein, hence, it has been recommended that the petitioner should be arrested immediately apart from other directions being given. It is thus apparent that the said ASI, namely, Subhash Chandra Yadav has written a letter dated 13.10.2019, subsequently without any material on record in the case diary to show that the villagers have refused to disclose the name of the person, who had fired gunshots on the informant and moreover, the said letter dated 13.10.2019 would bear it out that though it states that the petitioner was not present in his



house on the date and time of occurrence, however, it has not been stated that the petitioner was not present at the place of occurrence on the date and time of occurrence. This Court further finds from the records available in the case diary that the complicity of the petitioner in the alleged occurrence is writ large from the records. Hence, considering the gravity of the offence and taking into account the seriousness of the charges levelled against the petitioner as also considering the fact that the injury report of the informant also corroborates the incident, I do not find any merit in the present petition so as to consider the prayer of the petitioner for grant of anticipatory bail, hence, the present petition stands dismissed.

(Mohit Kumar Shah, J)

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