

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76148 of 2019

Arising Out of PS. Case No.-237 Year-2019 Thana- RUNISAIDPUR District- Sitamarhi

Sarbdeo Choudhary @ Lal Babu Choudhary @ Suraya Deo Choudhary Son
of Late Faujdar Choudhary Resident of Tola - Jagdishia, Village - Athari, Ward
No. 1, P.S.- Runnisaidpur, District – Sitamarhi.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Jitendra Singh, Sr. Adv.

For the Opposite Party/s : Dr. Mrityunjaya Kr. Gautam, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

4 18-06-2020 Heard Mr. Jitendra Singh, learned senior counsel for
the petitioner and Dr. Mrityunjaya Kumar Gautam, learned
counsel for the State via video conferencing.

The petitioner has filed the present application for
grant of pre-arrest bail in connection with Runnisaidpur P.S.
Case No. 237 of 2019 registered for the offence punishable
under Section 302/34 of the Indian Penal Code and Section 27
of the Arms Act.

Learned senior counsel appearing for the petitioner
submitted that from the FIR itself, it would be manifest that the
deceased Diwakar Singh had come to the house of the petitioner
in the night of 12.06.2019 at 02:00 a.m. to meet Pallavi, the



grand-daughter of the petitioner. Admittedly, the deceased was a trespasser, and on hearing voices, the petitioner noticed the intrusion and taking his licensee rifle admonished him and asked him to leave. Thereafter, the deceased physically resisted and scuffle took place on the spot and a shot, in the heat of scuffle, was caused to be fired which hit the deceased. He contended that the aforesaid gunshot injury to the deceased, even if attributed to the petitioner, was an act in self-defence.

On the other hand, learned counsel for the State submitted that it is not the case of the petitioner that the deceased was armed with any weapon and there is material on record to show that the petitioner was handed over gun by his nephew and, thereafter, he opened fire causing death of Diwakar Singh, who was unarmed. He contended that the act of omission and commission of gunning down by the petitioner is clearly the case of murder and would not come under exceptions of Section 300 of the Indian Penal Code.

Considering the submissions advanced on behalf of the parties, the gravity of the offence and nature of allegation, as there is direct and specific allegation of causing death by shooting down Diwakar Singh, son of the informant, I am not inclined to grant pre-arrest bail. The application is rejected.



In case, the petitioner surrenders and seeks bail, the same should be considered and disposed of on its own merit without being prejudiced in any manner by this order.

(Ashwani Kumar Singh, J)

rohit/-

U		T	
---	--	---	--

