

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83112 of 2019**

Arising Out of PS. Case No.-448 Year-2019 Thana- SAHARSA District- Saharsa

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Pallab Kumar Rahi @ Pallab Son of Ganesh Prasad Jha, aged about 48 years (Male), Resident of Village - Gangjala, Ramayan Bhawan, Ward No.17, P.S.- and Distt.- Saharsa. At Present, resident of Mohalla- Argora Basti, P.S.- Argora, Dist.- Ranchi 834002 (Jharkhand).

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Jha, Advocate

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

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 16-03-2020 Heard learned counsel for the petitioner and

learned Additional Public Prosecutor for the State.

The petitioner is seeking anticipatory bail in connection with Saharsa Sadar P.S. Case No. 448/2019 registered under Sections 302 & 34 of the Indian Penal Code, pending in the court of learned C.J.M., Saharsa.

As per the fardbeyan, the informant who happens to be the brother of the deceased has alleged that while he was taking the deceased to Sadar Hospital for treatment after he received fire shot injuries, the deceased prior to his death disclosed the name of three persons including this petitioner who had allegedly fired at him and fled away.



Learned counsel for the petitioner submits that on a bare reading of the First Information Report it will appear that initially one name “Pallab Singh” was written in the F.I.R., later on the title ‘Singh’ was cut down and the word ‘Rai’ was inserted making it the name as Pallab Rai son of not known, resident of Panchwati. Learned counsel submits that this petitioner is not Pallab Rai rather his name is Pallab Kumar Rahi @ Pallab and is presently residing at Mohalla – Argora Basti, P.S. - Argora, District – Ranchi in the State of Jharkhand.

Learned counsel submits that this petitioner has got no criminal antecedent and the petitioner has only been falsely implicated. In the case diary, it is submitted that the further statement of the informant has been recorded in paragraph ‘7’ and this time it has come that after receiving the fire shot the victim had fell down and thereafter the informant reached there and found his brother in the pool of blood. The informant brought his brother to Sadar Hospital for treatment where he died.

The informant alleged in his further statement that earlier the co-accused Boua Singh and Golu Singh had



threatened the deceased and he alleged that his brother has been shot at by said Boua Singh and Golu Singh with one unknown person.

Learned counsel submits that further statement of the informant clearly demonstrates that he had not seen the alleged occurrence and the name of the accused persons were not disclosed to him by the deceased prior to his death and in the further statement the informant has not disclosed that the name of this petitioner was informed to him by the deceased.

Learned counsel further submits that some other independent witnesses have been brought in course of investigation and all these witnesses have only alleged that the co-accused Golu Singh had fired from his pistol.

Learned counsel for the petitioner submits that the post mortem report though discloses two fire-arm injuries but it is not clear as to whether those are injuries of entry and exit. In any case, it is his submission that there is no allegation of firing against the petitioner and it is a case of false implication and there is no recovery of any fire-arm or ammunition from the possession of the petitioner.



Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioner. It is submitted that even though in the case diary the specific allegation of firing is there against the co-accused and not against this petitioner, this petitioner is said to be present at the alleged place of occurrence and had indulged in the scuffle which ultimately led to firing by the co-accused and the victim died. It is submitted that police has found the case true against the petitioner and a charge-sheet has now been filed, hence privilege of anticipatory bail be not granted to the petitioner.

Considering the facts and circumstances of the case wherein this Court finds from the case diary that though there is no specific allegation of firing against the petitioner and the petitioner has no criminal antecedent, but there is an allegation that the petitioner was present at the place of occurrence and he had participated in course of scuffle with the victim and a charge-sheet has already been filed against him, this court is not inclined to grant privilege of anticipatory bail to the petitioner.

Prayer for anticipatory bail of the petitioner is,



thus, refused.

However in view of the submissions that there are materials on the record showing that the petitioner had not indulged in assault and there is no allegation of firing against him as also that he has no criminal antecedent and in the further statement the informant had departed from his previous statement and has stated that the co-accused Golu Singh and Boua Singh had along with one unknown person killed the brother of the informant, this Court directs that in case the petitioner surrenders and prays for regular bail in the court below within a period of six weeks from today, his prayer for regular bail shall be considered on it's own merit on the basis of the materials available on the record and it shall not be rejected only because this Court has not granted privilege of anticipatory bail to the petitioner.

This applications stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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