

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82550 of 2019

Arising Out of PS. Case No.-307 Year-2019 Thana- BHABHUA District- Kaimur (Bhabua)

KALLU TIWARI @ MRITUNJAY KR. TIWARI @ MRITUNJAY KUMAR
TIWARI Son of Late Umanath Tiwari Resident of Village - Saidara, P.S.-
Bhabhua, District - Kaimur (Bhabhua).

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Birendra Kumar Singh

For the Opposite Party/s : Mr.Anant Kumar 1

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

5 08-07-2020

Heard learned counsel for the parties.

This application for anticipatory bail arises out of Bhabhua P.S. Case No. 307 of 2019 for the offence punishable under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act later on Section 25(1-b)a, 26, 35 of the Arms Act.

I have perused the case diary, which is there on record. It appears from the case diary that nearly nine days after registration of the F.I.R. statement of one Ganpati Tiwari was recorded by the police under Section 161 of the Cr.P.C., when he, for the first time disclosed the petitioner's name as one of the perpetrators of the crime. His statement was subsequently recorded under Section 164 of the Cr.P.C.



Learned counsel appearing on behalf of the petitioner has drawn my attention to the First Information Report to contend that the said Ganpati Tiwari himself was present at the time of registration of F.I.R. on 03.06.2019. He has submitted that no credence can be given to subsequent statements of the said Ganpati Tiwari recorded under Section 161 and 164 of the Cr.P.C. as signature finds place on the F.I.R.

On perusal of the First Information Report, I find that there is no other material against the petitioner over and above the said statements of said Ganpati Tiwari.

Considering the facts and circumstances and particularly the fact that the petitioner's name emerged nine days after lodging of the F.I.R. on the basis of statement of witness Ganpati Tiwari, who himself was present at the time of registration of the F.I.R., in my view, exceptional circumstance is made for grant of anticipatory bail, despite the fact that the case has been registered for the offence punishable under Section 302 of the Indian Penal Code. This application is allowed.

Let the petitioner above named, in the event of his arrest/surrender within six weeks from today in the Court below, be released 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 C.J.M., Kaimur at Bhabhua P.S. Case No. 307 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner shall present himself before the Police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bonds shall be liable to be cancelled.

(Chakradhari Sharan Singh, J)

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