

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.30987 of 2021**

Arising Out of PS. Case No.-596 Year-2019 Thana- MADHAURAH District- Saran

VIVEK KUMAR @ VIVEK KR. SINGH @ VIVEK SINGH Son of  
Rajavahadur Singh Resident of Village Bhawalpur, Police Station-  
Marhowrah, District - Saran at Chapra.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

**Appearance :**

|                      |   |                                                     |
|----------------------|---|-----------------------------------------------------|
| For the Petitioner/s | : | Mr. P.K.Shahi, Sr. Adv.<br>Mr.Ram Binod Singh, Adv. |
| For the State        | : | Mr. Ashok Kumar, APP                                |

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
**ORAL ORDER**

2      16-12-2021      Heard the learned counsel for the petitioner  
and the learned APP for the State.

The petitioner seeks regular bail in connection with Marhowrah P.S.Case No. 596/2019, registered for the offence punishable under Section 147, 148, 149, 323, 325, 326, 379, 332, 333, 307, 302, 504, 120(b) of the Indian Penal Code and Sections 25(1-b)a, 26/35/27 of the Arms Act.

The accusation, according to the informant, namely, Vikas Kumar Singh, who is the Assistant Sub-Inspector of Police of Special Investigation Team, is that he along with other police personnel and constable had proceeded from Chapra to



Marhaura police station at around 4.30 pm. on the alleged date of occurrence and had talked with the Officer-in-Charge of Marhaura police station regarding Garkha P.S. Case No. 512 of 2019 in respect of certain incident whereafter the informant along with other police personnel had proceeded to Chapra and reached there at about 6.20 pm. at Marhaura market in front of the LIC office. It further alleged that in the meantime, one white colour scorpio vehicle came there with 8 to 9 persons sitting therein and the said persons were variously armed with rifle, revolver and pistol. It is also alleged that 7-8 co-accused persons, riding on various motorcycles, had also reached there. Thereafter, the accused persons are stated to have got down from the Scorpio vehicle and the motorcycle in question, armed with firearms and had not only assaulted the police personnel, but had also engaged in firing indiscriminately on the police party, resulting in firearm injuries to the police personnel as also subsequent death of one police personnel,



namely, Mithilesh Kumar Shah and Farooque Alam, subsequently. The accused persons are stated to have then fled away.

The learned Senior Counsel for the petitioner, Sri P.K.Shahi, has submitted that the petitioner is innocent and he has been falsely implicated in the present case. It is submitted that though the petitioner is an accused in one other case, but he is on bail in the said case. It is further submitted that the petitioner is languishing in custody since 7.12.2020. The learned Senior Counsel for the petitioner has also submitted that neither the petitioner has been alleged to have engaged in any kind of specific overt act nor any such evidence has come during the course of investigation. It is also submitted that no incriminating articles have been recovered from the possession of the petitioner. Lastly, it is submitted that similarly situated co-accused persons have been granted bail by coordinate Benches of this Court vide orders dated 17.2.2020, 25.8.2020, 20.3.2020, 29.6.2020 and 2.7.2020,



7.7.2020 passed in Criminal Miscellaneous No. 67542 of 2019, Criminal Miscellaneous No. 85323 of 2019, Criminal Miscellaneous No. 81598 of 2019, Criminal Miscellaneous No. 19982 of 2020, Criminal Miscellaneous No. 21394 of 2020 and Criminal Miscellaneous No. 21737 of 2020. It is also submitted that recently also, a coordinate Bench of this Court vide order dated 25.11.2021 passed in Criminal Miscellaneous No. 30837 of 2021 has been pleased to grant regular bail to a similarly situated co-accused person.

Per contra, the learned APP for the State, Sri Ashok Kumar, has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record as also considering the parity of the case of the petitioner with that of the co-accused persons, who have already been granted bail by coordinate Benches of this Court and further



considering the fact that the petitioner herein has not been alleged to have engaged in any sort of overt act and moreover, he has not been named in the FIR, I deem it fit and proper to direct for release of the petitioner on regular bail.

Accordingly, the above named petitioner is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned ADJ, XIIIth, Saran at Chapra in connection with Marhowrah P.S. Case No. 596/2019.

**(Mohit Kumar Shah, J)**

Ajay/-

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