

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31402 of 2020

Arising Out of PS. Case No.-344 Year-2015 Thana- TEKARI District- Gaya

SUBHASH KUMAR @ BABLOO YADAV S/o Ramanand Yadav Resident
of Village-Bali, Police Station-Tekari (Panchanpur), District-Gaya.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Rama Kant Sharma, Sr. Advocate

Mr. Gajendra Kumar Singh, Advocate

For the Opposite Party/s : Mr. Shyam Kumar Singh, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

6 28-04-2021 Heard Sri Rama Kant Sharma, learned senior counsel
appearing for the petitioner and Sri Shyam Kumar Singh,
learned A.P.P. for the State through video conferencing.

The petitioner apprehends his arrest in connection
with Tekari P.S. Case No. 344 of 2015, registered under Sections
147, 148, 149, 341, 342, 302 and 120(B) of the Indian Penal Code
and Section 27 of the Arms Act, pending in the court of the
learned Additional Chief Judicial Magistrate-IX, Gaya.

The accusation is that Sanjay Yadav and Ramesh
Kumar, both sons of informant Balkeshwar Yadav, along with
Prince Kumar, grandson of informant, moved to hospital
boarding on motorcycle for treatment. After treatment of his
grandson, while they were returning, boarding on motorcycle,



then in the way, in the evening at about 6.30 P.M., when they reached near village-Belmamalsari then 12 persons, including the petitioner, stopped the motorcycle and fired through rifle causing death of his both sons Sanjay Yadav and Ramesh Kumar. On hearing the sound of firing, informant moved from his filed then found his grandson Prince Kumar was weeping. At that time, the informant also saw that Munna Yadav and Bubun Yadav were armed with rifle, whereas others were armed with small firearm weapons and all were moving from there. He saw firearm injury at the nose and chest of his son Sanjay Yadav and his another son Ramesh Yadav had sustained injury at his head and both were lying dead. On query, the informant came to know that at the time of occurrence, Jitendra Kumar @ Jitan Kumar was also coming on motorcycle with Sanjay Yadav and Ramesh Yadav. The informant claimed that due to pointing out of location of his sons by Jitendra Kumar, his both sons have been killed.

Learned counsel appearing on behalf of petitioner submits that earlier the prayer for pre-arrest of the petitioner was refused on 17.06.2020 vide Criminal Miscellaneous No. 64861 of 2019 on merit with observation to the petitioner to surrender before the trial Court within six weeks and seek



regular bail and the trial Court shall consider the regular bail of the petitioner on its own merit without being prejudiced by the rejection order. Further submission is that on submission of the Chargesheet against other eight accused named in the F.I.R., they faced trial through Sessions Trial No. 73 of 2016 and after trial all have been acquitted by the learned Additional Sessions Judge-IV, Gaya vide Judgment dated 05.07.2017 in which the trial Court arrived at conclusion that none of the witnesses have supported the prosecution case.

Admittedly, the prayer for pre-arrest bail of the petitioner has already been refused on merit by a co-ordinate Bench of this Court, as such, I do not find any reason to reconsider the prayer for pre-arrest bail of the petitioner on the ground of acquittal of other co-accused. Accordingly, the prayer for grant of pre-arrest bail of the petitioner stands rejected.

(Rajendra Kumar Mishra, J)

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