

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30563 of 2020

Arising Out of PS. Case No.-383 Year-2017 Thana- LAKHISARAI District- Lakhisarai

RAKESH KUMAR Son of Subhas Yadav Resident of Village - Hakimganj
Khagaul, Police Station and District - Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

Lakshmi Kant Sharma, Advocate

For the Opposite Party/s : Dr. Ajeet Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 02-03-2021 Heard learned senior counsel for the petitioner and
learned Additional Public Prosecutor for the State.

The petitioner has filed the instant application for grant of anticipatory bail apprehending his arrest in connection with Lakhisarai No. 383 of 2017 registered for the offence under sections 302, 120B and 34 of the Indian Penal Code and section 27 of the Arms Act.

As per allegation in the first information report, while the father of the petitioner was returning on his motorcycle, he was stopped by the four named accused persons including the petitioner herein, and it is further stated that this petitioner along with co-accused Jitendra Yadav fired on the father of the informant, as a result of which he fell down injured and died.

It is submitted by the learned senior counsel appearing for the petitioner that the earlier application for anticipatory bail of the petitioner was rejected vide order dated 31.7.2018



(Annexure – 1) passed in Cr. Misc. No. 39679/2018. However, as a result of investigation carried out in this case, it transpired from the location of the mobile phone of the petitioner that the petitioner was not present anywhere near the place of occurrence. It is submitted that after investigation, final form was submitted in the case, not sending up the petitioner and the said report has been brought on record as Annexure – 4 to the instant application. It is submitted that the learned court below differing from the said final report, in a mechanical manner, has taken cognizance in the case and, as such, the apprehension of arrest and this second application for anticipatory bail. It is further submitted that co-accused Jitendra Yadav, against whom charge-sheet was submitted, has been enlarged on regular bail by this Court *vide* order dated 5.3.2020 (Annexure – 6) passed in Cr. Misc. No. 61963 of 2019. It is, thus, submitted that the Court below may consider the application of bail of this petitioner taking into consideration grant of bail to the co-accused, in view of the fact that so far as this petitioner is concerned, final form was submitted.

Application of anticipatory bail is opposed by learned Additional Public Prosecutor for the State.

Having heard learned counsel for the parties and on



going through the materials on record, it transpires that the application for anticipatory bail of the petitioner was rejected on 31.7.2018 directing the petitioner to surrender and seek regular bail, however he continued to remain at large. On merits, the allegation against the petitioner is that he along with one Jitendra Yadav fired on the father of the informant causing injuries on his temple as a result of which, he fell down dead. The allegations are supported from the material which transpired in course of investigation including the statement of Vikash Kumar as also the postmortem report of the deceased.

Thus, in the facts and circumstances of the case, I do not find that the petitioner has made out any case for filing an application for grant of anticipatory bail once again. Accordingly, the Court is not inclined to enlarge the petitioner on anticipatory bail and the same stands rejected.

However, if the petitioner surrenders before the learned court below within a period of six weeks, the application for bail of the petitioner shall be considered by the court below without being prejudiced by this order.

(Partha Sarthy, J)

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