

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35774 of 2020

Arising Out of PS. Case No.-136 Year-2020 Thana- ARA MUFFSIL District- Bhojpur

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DHARMENDRA RAY @ DHARMENDRA KUMAR RAY Son of Lal Mohar Rai, Resident of Village- Mahakampur Bara, P.S.- Muffasil, District- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar Thakur, Adv.

For the Opposite Party/s : APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 23-03-2021 Heard Mr. Ajay Kumar Thakur, learned counsel for the petitioner, learned APP and Mr. Umesh Kumar Verma, learned counsel for the informant.

The petitioner apprehends his arrest in Ara Muffasil P.S. Case No.136 of 2020 registered under Sections 147, 148, 149, 341, 323, 307, 302, 504, 506 of the I.P.C. and under Section 27 of the Arms Act.

A supplementary affidavit is also filed which is kept on record stating therein that the petitioner has got criminal antecedent and he is an accused in one criminal case.

The informant Shiv Shankar Rai named 26 persons and 10-15 unknown persons and alleged that they having armed with different weapons came and began to abuse. They started



firing. The informant and his brothers tried to pacify the dispute. In the meantime, Bijendra Rai fired from his licensee gun which hit Triloki Shankar Rai (brother of the informant). Triloki Shankar Rai died on the spot. There was a stampede. In the meantime, Pappu Rai fired from gun which hit Hari Shankar Rai (another brother of the informant) who also died later on. Dharmendra Rai (petitioner), Shiv Mohan Rai and Vishnu Shankar Rai also fired aiming at the informant but the informant somehow saved himself. It is further alleged that the other accused person made firing and assaulted many other persons.

Learned counsel for the petitioner submits that there is specific allegation against Bijendra Rai and Pappu Rai, who are alleged to have fired at Triloki Shankar Rai and Hari Shankar Rai. The petitioner is of course alleged to have fired along with two other persons aiming at the informant but the informant did not receive any firearm injury. The informant is said to have got injury on account of assault made by other accused persons. It is further submitted that similarly situated accused persons, namely, Bharat Rai, Bhikhari Rai and Raghuvans have already been granted anticipatory bail vide order dated 17.12.2020 passed in Cr.Misc.No.29432 of 2020. The case of the petitioner almost stands on the same footing. There is a counter version



and the occurrence took place due to land dispute. From the side of the petitioner also many persons were injured.

Learned A.P.P. and learned counsel for the informant vehemently opposed the prayer for anticipatory bail and submitted that of course the informant did not receive any firearm injury but the petitioner and others are alleged to have fired aiming at the informant and this fact itself shows that the petitioner actively participated in the crime in which two brothers of the informant were gunned down. Therefore, the petitioner does not deserve anticipatory bail.

Perused the records. It appears that there is specific allegation of firing against Bijendra Rai and Pappu Rai, which caused death of Triloki Shankar Rai and Hari Shankar Rai. The informant alleged that the petitioner and two others also fired at him. The informant did not receive injury. Of course, there is a counter version but two persons were gunned down and the offence is very serious in nature.

Taking into consideration the facts aforesaid, I am not inclined to enlarge the petitioner on anticipatory bail. Accordingly, the same is rejected.

The petitioner, if so advised, may surrender in the court below and the learned court below shall consider the



regular bail of the petitioner on its own merit without being prejudiced from the order of this court.

(Prabhat Kumar Jha, J)

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