

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39273 of 2020

Arising Out of PS. Case No.-18 Year-2019 Thana- KALYANPUR District- Samastipur

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Rahul Kumar, male, aged about 23 years, S/o Annu Thakur, R/o P.S.-
Janardhanpur, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rajkumar Rajesh, Adv.
For the Informant	:	Mr. Bijay Bhushan Prasad, Adv.
For the Opposite Party/s	:	Mr. APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 07-12-2021 Heard Mr. Rajkumar Rajesh, the learned Advocate

for the petitioner and Mr. Bijay Bhushan Prasad, the learned

counsel for the informant. The State is represented by the

learned APP.

The petitioner seeks bail in anticipation of his

arrest in connection with Kalyanpur P.S. Case No. 18 of

2019, dated 24.01.2019, instituted for the offences under

Sections 302 and 120(B) of the Indian Penal Code and

Section 27 of the Arms Act.

According to the F.I.R., which has been lodged by

the wife of the deceased, the petitioner and two others came



to her house and after some time opened fire from their weapons leading to the death of the deceased. Later, the petitioner and his two other companions fled away on a motorcycle.

The learned counsel for the petitioner has submitted that an absolutely false case has been lodged against him. He has further submitted that the deceased had several cases against him and the possibility of his having been killed by somebody else cannot be ruled out. In fact, during the course of investigation, it has been pointed out, three persons made confession before the police that in their presence, the deceased was killed. In that statement, the name of the petitioner does not transpire.

Apart from this, it has been submitted that the informant has only seen the petitioner running away on the motorcycle, but has not seen any part of the occurrence in which the deceased was killed. It has also been submitted that the petitioner is twenty three (23) years of age and a lenient view be taken.

The counsel for the petitioner has further disputed



the assertion of the State that he is an absconder.

After having heard the counsel for the parties, I do not find it to be a fit case for grant of anticipatory bail to the petitioner for the reason that there is specific accusation of firing against him from his weapon, thereby killing the deceased. The petitioner has yet not surrendered to the process of law which, again, prevents this Court from exercising discretion for grant of anticipatory bail.

The prayer for grant of anticipatory bail to the petitioner is, accordingly, rejected.

However, if he surrenders before the Court below and seeks bail, the Court below, after taking into account all the grounds raised by him, shall pass order in accordance with law, without being prejudiced by the fact that the present anticipatory bail application has not been entertained by this Court.

The application stands dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

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