

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1341 of 2021**

Arising Out of PS. Case No.-336 Year-2018 Thana- DUMRA District- Sitamarhi

ASHWANI DUBEY @ GOLU DUBEY son of Ajay Kumar Dubey Resident
of Gandhi Nagar, Road No.02, Kholua, Bairia, P.S. Ahiyapur, District-
Muzaffarpur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vinay Ranjan

For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, APP

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER**

3 28-09-2021 Heard learned counsel for the petitioner and the State. .

The petitioner is apprehending his arrest in Dumra P.S.
Case No. 336 of 2018 registered under Sections 302, 120(B),
307/34 of the Indian Penal Code and 27 of the Arms Act read
with Section 17 of CLA Act.

Allegedly, two persons shot dead an under trial prisoner in
court premises.

It has been submitted on behalf of the petitioner that
there is no allegation of tampering of witnesses alleged against
the petitioner. The petitioner has been falsely implicated in the
present case. The petitioner is not named in the FIR. The FIR
was instituted by the police on the basis of disclosure, made by
the co-accused Vikash Mahto who was apprehended at the spot



itself. He narrated the entire manner of occurrence and disclosed that the entire incident is said to have taken place at the instance of one Mukesh Pathak. On this disclosure, fardbeyan was drawn up and the present FIR was instituted under the provisions of 154 Cr.P.C. The said Vikash Mahto has not alleged the involvement of this petitioner in the said occurrence. Subsequently, when the statement of the said Vikash Mahto was recorded under Section 161 Cr.P.C. in course of investigation before the police, the name of this petitioner was dragged in this case due to ulterior motive and for oblique reasons. There is a contradiction in the statement of the said Vikash Mahto in his statement made before the police at the time of institution of FIR u/S 154 Cr.P.C. and in the statement which he made subsequently under Section 161 Cr.P.C. At the time of alleged occurrence, the petitioner was in judicial custody in connection with another case at Motihari Jail. As per the FIR, the main allegation of assault is alleged against co-accused Vikash Mahto.

On behalf of the State, it is submitted that the petitioner is not named in the Complaint Case/F.I.R.

Considering the aforesaid facts and circumstances of the case, let the petitioner, above named, in the event of



arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Sitamarhi in connection with Town Dumra P.S. Case No. 336 of 2018, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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