

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6690 of 2021

Arising Out of PS. Case No.-2 Year-2020 Thana- MAHUA District- Vaishali

=====

AVINASH KUMAR @ AVINASH RAI S/o Virendra Rai R/o Village-
Manpura, P.S.- Mahua, District- Vaishali

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

=====

Appearance :

For the Petitioner/s	:	Mr. Bimal Kumar, Adv.
	:	Mr.Vasant Vikas, Adv.
For the Opposite Party/s	:	Mr. APP
For the Informant	:	Mr. Jitendra Narayan Sinha, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 10-03-2021 Heard Mr. Bimal Kumar, learned counsel for the

petitioner and Mr. Jitendra Narayan Sinha, 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 Mahua P.S. Case No. 02 of 2020

instituted for the offences under Sections 302, 120(B) of the

Indian Penal Code and Section 27 of the Arms Act.

The wife of the deceased has lodged the subject

F.I.R. alleging that the petitioner and one Vinay Rai had fired

from their weapons at the deceased, thereby killing him.



Learned counsel for the petitioner has shown to this Court the complaint lodged by the mother of the deceased in which she has levelled allegation against the informant of the present case. It has been alleged by the mother of the deceased that the wife of the deceased (informant of the present case) is instrumental in getting the deceased killed.

The aforesaid complaint has not been moved but has been made part of the investigation and the case is being investigated on those lines also.

The other accused person against whom also there is accusation of firing at the deceased, was arrested during the pendency of the anticipatory bail application filed on his behalf.

Mr. Jitendra Narayan Sinha, learned counsel for the informant has, however, submitted that the complaint, about which reference has been made by the counsel for the petitioner has been filed after three days of lodging of the First Information Report. It has also been submitted that the aforesaid complaint has not been moved before the court



below. Apart from this, Mr. Sinha has contended that even if the said complaint would have been moved before the court below, the court below in that case would definitely have awaited the receipt of the police report in the subject F.I.R, which has been lodged before the complaint.

Considering the nature of accusation against the petitioner in the First Information Report which is earlier in time, I am not inclined to grant anticipatory bail to the petitioner.

The prayer for anticipatory bail is rejected.

However, if the petitioner surrenders before the court below and seeks bail, the court below shall take into account all such facts including that the mother of the deceased has levelled allegation on the informant of this case and that during the course of investigation, it has come to light that somebody else has killed the deceased and the enmity between the parties and the likelihood of false implication and shall pass orders in accordance with law without being prejudiced by the fact that the present petition has not been entertained.



(Ashutosh Kumar, J)

sunilkumar/-

U		T	
---	--	---	--

