

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65864 of 2021

Arising Out of PS. Case No.-184 Year-2020 Thana- GAYA KOTWALI District- Gaya

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Anish Sharma @ Anish Kumar Son of Arun Kumar Resident of Mohalla-Singhoul House, Lakhibagh, Gaya-Nawada Road, P.S.- Muffasil, District-Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No 2, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 13-12-2021 Heard learned counsel for the petitioner and Shri Jharkhandi Upadhyay, learned A.P.P. for the State.

The petitioner seeks regular bail in connection with Kotwali P.S. Case No. 184 of 2020 instituted for the offences under Sections 147, 148, 149, 341, 323, 337, 338 and 307 of the Indian Penal Code read with Section 27 of the Arms Act.

Learned counsel for the petitioner submits that the petitioner is in custody since 08.09.2021 and charge-sheet has been submitted in the case.

Learned counsel for the petitioner submits that from bare perusal of the allegation as alleged in the F.I.R. it would manifest that the informant alleges that while he along with police force were on patrolling duty on 14.05.2020 at 1:30 p.m.



he received information from superior officers that near Falgu River, Manpur six lane two groups are brick-batting and firing against each other. Accordingly, the police reached at the place of occurrence and on seeing the police force, the accused persons of both sides started fleeing. It is further alleged that thereafter police force of Muffasil Police Station also reached at the place of occurrence and on seeing the police force several persons assembled there and disclosed that accused of both the groups assemble inside the Falgu River for drinking, gambling, take drugs and snatched mobile phone of passer-by. It is next alleged that the police secretly obtained information that six accused, including the petitioner, belonging to the area under Muffasil Police Station were involved in the occurrence along with 25-30 unknown persons and from other side eleven named accused persons and 25-30 unknown persons were involved in the occurrence who belonged to the area pertaining to Kotwali Police Station. It is further alleged that the reason for the occurrence was snatching mobile phone of a boy by the accused persons belonging to the area pertaining to Kotwali side.

Learned counsel for the petitioner submits that from bare perusal of the allegation as alleged in the F.I.R. it would manifest that neither the informant nor any person who



assembled there were an eye-witness to the occurrence, nor the F.I.R. even remotely suggest that any person from either side were injured in firing or brick batting, nor the F.I.R. discloses the source who disclosed with such accurate precision the name of seventeen accused persons rather the F.I.R. records that the police received secret information. Learned counsel further submits that the allegation as alleged does not even remotely record that any fired cartridge was recovered from the place of occurrence. Learned counsel for the petitioner thus submits that it does not stand to reason as to how the police instituted this case under Sections 307 of the I.P.C. and Section 27 of the Arms Act when neither there was any injury from either side nor any fired cartridge was recovered from the place of occurrence.

Learned counsel for the petitioner submits that this petitioner is a businessman of Gaya and has hotels apart from other businesses as detailed in paragraph '10' of the bail petition. Thus, it is submitted that since petitioner is a propertied man and is having land in the area of Gaya as such land mafias, in connivance with the police, are implicating him in cases after cases, the present case is an example of the same. Learned counsel further draws the attention of this Court to the Annexure-II to the bail petition which is an inquiry report of the



Inspector General of Magadh Range who has doubted the entire investigation regarding the petitioner in an another case and from perusal of the report it also appears that the Inspector General after considering the investigation, was *prima-facie* not satisfied with regard to the implication of the petitioner in that case and thus the I.G. suspended Sub-Inspector Abujair Ansari, A.S.I. Surendra Prasad and Constable Babloo Rai in connection with another case with respect to the petitioner as it was found that the petitioner was falsely implicated in the said case.

Learned A.P.P. for the State vehemently opposes the prayer for regular bail of the petitioner and submits that petitioner has got criminal antecedents as mentioned in paragraph '3' of the bail application.

Learned counsel for the petitioner rebutting the submission of learned A.P.P. submits that it is because of the connivance of the police with the land mafias that the petitioner is being implicated in cases after cases when from perusal of the allegations made in the present F.I.R. it would manifest *prima-facie* that the petitioner has been falsely implicated as neither the informant nor any person had witnessed any occurrence, nor there was any injury, nor any cartridges were recovered as aforesaid.



Considering the fact that the petitioner is in custody since 08.09.2021 and charge-sheet has been submitted in the case, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gaya in connection with Kotwali P.S. Case No. 184 of 2020 subject to the condition as laid down under Section 437 (3) Cr.P.C.

(Satyavrat Verma, J)

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