

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74734 of 2019

Arising Out of PS. Case No.-150 Year-2017 Thana- ARA NAWADA District- Bhojpur

Mamlesh Singh @ Mamlesh Kumar Singh, aged about 24 years (Male), Son of Jay Kishore Singh Resident of Village - Mahuli, P.S.- Ara Muffasil, Distt.- Bhjojpur, Ara.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ajay Kumar Thakur, Adv.
For the Opposite Party/s	:	Mr.Nirmal Kumar Sinha, APP
For the Informant	:	Mr. Dharendra Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

12 24-02-2021 Heard learned counsel for the petitioner and learned counsel for the State as also counsel for the Informant.

In this case, the petitioner is seeking bail in connection with Ara Nawada P.S. Case No. 150 of 2017 registered for offences under sections 326, 307/34, 302 of the Indian Penal Code and Section 27 of the Arms Act.

In the present case, the offence has been committed on 27.4.2017 at 6 p.m. but, the Informant lodged the written report at the police station on 29.4.2017 at 5.30 p.m. i.e. two days after the alleged date of occurrence.

In the First Information Report, the Informant has made a statement that the Informant along with other persons were gossiping. In the meantime, they heard the sound of gun-shot firing, he rushed to the shop where he found that his



brother was being chased by 5 to 6 persons having lethal weapons in their hands. In the meantime, his brother fell in a ditch whereafter the accused persons fired upon him. The persons, who were chasing his brother, were Mamlesh Kumar Singh (petitioner) son of Jai Kishore Singh, Sunil Kumar son of Kamal Kishore Singh, Vicky Kumar son of Ramdhari Singh and Pintu Singh son of Rajnarain Singh, all were holding a country made pistol in their hands. They started raising alarm and pelting stones upon the accused persons. In the meantime, he saw that his brother was killed by Mamlesh Singh (the petitioner), whereafter, his brother become unconscious and the accused persons fled away from there on motorcycle.

The reason of incident is the old enmity.

The deceased as well as the present petitioner are carrying criminal cases over their heads which itself shows the nature of activity they are engaged.

Learned counsel for the petitioner submits that the present F.I.R. in fact is not the earliest statement rather it was substituted F.I.R. and, purposely, for settling the dispute with the present petitioner and has been implicated in the present case. He has further submitted that the claim of the eye-witness is belied on the ground that Sanjay Kumar and Ranjan Kumar



Singh are the seizure list witnesses in which Ranjan Kumar Singh is the son of the Informant and both of them have claimed to be the eye-witnesses to the incident. It has further been submitted that those who were involved in the treatment of the deceased, they left for Patna for treatment whereas Sanjay Kumar and Ranjan Kumar Singh remained in the native place and the seizure list has been prepared bearing their signature. Therefore, the normal action would have been the police must have recorded the statement of Ranjan Kumar Singh, who is the son of the Informant but, both of them kept mum and did not disclose who were the perpetrators in commission of crime. Learned counsel for the petitioner has further submitted that the victim has not died of the bullet injury rather has died on account of septicemia, which is absolutely clear from the Postmortem Report.

In the present case, the Investigating Officer has filed the counter affidavit and tried to explain the delay in paragraph nos. 6, 7 & 8 respectively.

In reply, learned counsel for the petitioner submits that the explanation of delay is of no avail when the earliest statement has been substituted by the another one, at least, Ranjan Kumar Singh and Sanjay Kumar should have taken the



name of the present petitioner.

From the records, it appears that the victim after receipt of injury was carried to the Hi-tech Hospital at Saguna More where he was treated at the initial stage and, later on, he was shifted to Ruban Hospital where he died and the body was transported to the P.M.C.H, for postmortem. The Bed Head Ticket was prepared by the Hi-tech Hospital which shows that the victim had received several gun-shot injury on different parts of the body.

This Court had called for a report regarding stage of trial. From the report, it appears that the case has been committed to the Court of Sessions, the charge is to be framed and the trial has to proceed.

Looking to the entire facts and circumstances of the case, this Court is not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner, above named, is rejected with a direction to the court below to conclude the trial expeditiously preferably within a period of one year from the date of receipt of this order.

(Shivaji Pandey, J)

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