

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 14765 of 2022

Arising Out of PS. Case No.-574 Year-2021 Thana- MUFFASIL District- West Champaran

SURESH KUSHWAHA @ SURESH KUMAR SON OF NATHUNI MAHTO
R/O VILLAGE- BARWA, P.S.- LAURIYA, DISTRICT- WEST CHAMPARN
... .. Petitioner.

Versus

The State of Bihar. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Sanjeev Kumar, Advocate Mr. Kumar Rajdeep, Advocate
For the State	:	Mr. Dilip Kumar No.1, APP
For the Informant	:	Mr. Rana Vikram Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
C.A.V. ORDER

5 21-10-2022 Heard Mr. N.K. Agrawal, learned Senior counsel
assisted by Mr. Sanjeev Kumar, learned counsel for the
informant and learned APP for the State.

The petitioner apprehends his arrest in Bettiah (M)
P.S. Case No. 574 of 2021, registered for the offences
punishable under Section 147, 148, 149, 323, 324 and 307 of
the Indian Penal Code and under Section 27 of the Arms Act.

The accusation against the petitioner is that he
resorted firing upon the informant sustaining grievous injury to
him. The reason behind the occurrence is said to be long
standing land dispute.

It is submitted by learned counsel for the petitioner
that no such occurrence as alleged ever took place. He has
been falsely implicated in this case due to land dispute. The



allegation levelled against the petitioner is not specific rather general and omnibus in nature. The informant and his associates are men of criminal antecedent and they are land grabbers of the locality. They used to create dispute over the valuable lands and to make profit out of the same. As a matter of fact, the land in question belongs to the heirs of one Baldeo Ram, who is Khatiyani Raiyat of the land. It is further submitted that vide two registered Sale Deeds dated 17.02.2017, 1 Kattha 3 dhur 18 dhurki land was sold by the heirs of Khatiyani Raiyat in favour of Suresh Kumar, S/O Chand Mal and the petitioner. Later on, Suresh Kumar, S/O Chand Mal executed a registered Sale Deed dated 16.03.2018 in respect of the land in question in favour of Rajesh Kushwaha, the brother of the petitioner. The mutation of the aforesaid land has been created in favour of the petitioner and his brother and they are paying rent in respect of the same to the State of Bihar. The concerned Anchal Office has also issued L.P.C. in respect of the land in favour of the petitioner and his brother. A proceeding under Section 144 Cr.P.C. bearing Case No. 1883M/2021 was initiated before S.D.M., Bettiah, Sadar between the parties which was dropped vide order dated 06.12.2021. A Title Suit No.47/1995 was decided in favour of the vendors of the petitioner and against Radheyshyam Chaubey and others through whom the informan title. A Civil Appeal has been filed



against the aforesaid order, but, there is no stay, etc. in the said Civil Proceeding. After the purchase of the land, the petitioner and his brothers was given vacant possession of the same and they have erected a boundary wall around it. On the alleged date and time of occurrence, the informant and his men tried to take forcible possession of the land and in this connection a counter case bearing Bettiah (M) P.S. Case No. 640/21 has been lodged against the present informant and others by petitioner's side. The present informant has sustained simple injury during the course of alleged occurrence by hard and blunt object and he has not sustained any firearm injury. Petitioner has no criminal antecedent as mentioned in para-3 of the bail application.

Learned APP for the State assisted by learned counsel for the informant vehemently opposing the bail petition submitted that petitioner along with several other persons attempted to take forcible possession of the land belonging to the informant and on being restrained, petitioner who was carrying a firearm, fired at the informant which hit him in the right thigh. Aman Barnwal fired at Kunal Yadav which also hit his thigh, Munna Barnwal and Ajay Kushwaha also fired which hit Manish Kumar and Faisal @ Dumphy and Satyadev Yadav causing firearm injuries on their person. Immediately after the occurrence, all the injured persons were taken on

Medical Hospital, Bettiah wherefrom



after initial treatment, they were taken to Rahmania Medical Center for urgent and proper treatment of firearm injury. In the Rahmania Medical Center bullet remnants/pilates were extracted from thigh of informant and from various parts of the bodies of other injured persons. Allegation in the FIR against the petitioner is of firing at the informant also corroborated and supported by the medical evidence. The petitioner and many other accused persons have also fired at the other persons of informant's side which equally got corroborated from medical evidence. In course of investigation statement of injured witnesses have also been recorded, who unequivocally have supported the mode and manner of occurrence and have also pointedly referred to the role played by each of the accused persons. In course of investigation, the police have found the case to be true against the petitioner and other accused persons. In view of the direct allegation against the petitioner of causing firearm injury to the informant, which has corroborated by the medical evidence, the petitioner does not deserve anticipatory bail.

Vide order dated 11.08.2022, case diary was called for in this case. I have perused the case diary including the entire records of this case. From perusal of the records, it appears that several persons were injured in the alleged occurrence and some of them have sustained firearm injury. There is

on against the petitioner of resorting



firing upon the informant which has also been supported by medical report and the witnesses in para-7 to 11 of the case diary have also supported the prosecution case.

Considering the facts and circumstances of case, the nature of accusation and the materials available on record, I am not inclined to enlarge the petitioner on anticipatory bail. The prayer for anticipatory bail of the petitioner is hereby rejected. However, the petitioner is directed to surrender before the learned Court below within six weeks from today and seek regular bail and the learned Court below would pass order in accordance with law without being prejudiced by this order.

(Anjani Kumar Sharan, J.)

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