

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28689 of 2021

Arising Out of PS. Case No.-13 Year-2021 Thana- SIMRI District- Darbhanga

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BABAN YADAV @ BABAN KUMAR S/O LATE MAHABIR YADAV R/o
village- Simri, P.S.- Simri, District- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Advocate Mr. Deepak Kumar, Advocate
For the Opposite Party/s :		Mr. Ram Priya Sharan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 18-02-2022 Heard Mr. N.K. Agarwal, learned Senior Advocate for the petitioner and Mr. Ram Priya Sharan Singh, learned APP for the State.

The petitioner seeks bail in anticipation of his arrest in connection with Simri P.S. Case No. 13 of 2021 dated 07.01.2021 instituted for the offences under Sections 25(1-b)a/26/27/35 of the Arms Act.

Mr. Agarwal has pointed out that the petitioner earlier was made accused in Simri P.S. Case No. 12 of 2021 dated 07.01.2021 for the offences under Sections 341, 323, 324, 307, 120(B) and 302 of the Indian Penal Code and Section 27 of the Arms Act.

In the aforesaid case, the petitioner has been granted anticipatory bail by a Bench of this Court.

In the aforesaid case, one Anil Yadav was



arrested and at his instance, a loaded country made pistol is said to have been recovered from the fodder house said to be belonging to the petitioner.

It has submitted that in Simri P.S. Case No. 12 of 2021, referred to above, though the petitioner has been named but there is no specific accusation of his firing at the deceased. The fodder house is being used by several persons of the village and the petitioner does not have exclusive possession of the same.

It has further been argued that assuming that the fodder house belonged to the petitioner, mere recovery of a loaded firearm weapon without there being any supplementary/additional evidence to confirm that the weapon so recovered was used in an offence for which a substantive case has already been lodged in which the petitioner has been made accused, he ought not to be separately prosecuted for the offence under the Arms Act.

On these grounds *viz.* grant of anticipatory to the petitioner in the case of murder, which appears to be in the same transaction and the recovery of the weapon having been made from a fodder house said to belong to the petitioner which he denies, the petitioner is directed to be released on bail, in the event of his arrest or surrender before the court below within a period of four



weeks from the date of receipt/production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-IV, Darbhanga in connection with Simri P.S. Case No. 13 of 2021, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Ashutosh Kumar, J)

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