

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37412 of 2021

Arising Out of PS. Case No.-23 Year-2020 Thana- SALIMPUR District- Patna

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MITHILESH KUMAR @ MITHILESH SINGH S/O SRI KISHORI RAI R/O
VILLAGE MANJHAULI, P.S-SALIMPUR, DISTRICT-PATNA, STATE-
BIHAR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms.Preety Kunwar, Advocate

For the Opposite Party/s : Mr.Rabindra Kumar, APP

For the Informant : Mr.Suraj Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 27-07-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 147, 148, 149 and 302 of the Indian Penal Code read with Section 27 of the Arms Act.

Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and the informant alleges that that he along with his nephew, Niranjana Kumar (deceased) was going to attend a marriage when they were surrounded by twelve named and three unknown accused persons and they started firing indiscriminately, it is next alleged that Rudal Rai, Nitish Rai, Dhanraj Rai and Mrityunjay Kumar caught the nephew of the informant and took him in a field where



Mithilesh Kumar (petitioner), Satyendra Prasad and Damru Ram carrying pistol in their hand fired killing him on the spot.

Learned counsel for the petitioner submits that from perusal of the allegation as alleged in the F.I.R. it would manifest that the informant alleges that four accused persons, excluding the petitioner, took the deceased in a field where four named accused persons, including the petitioner, fired killing him on the spot, it is next submitted that though it is alleged that four accused persons fired but then the allegation is not specific. Learned counsel next submits that allegation of firing is by four accused persons but from perusal of the postmortem report it would manifest that only two firearm wounds have been found on the body of the deceased, it is thus submitted that it appears that informant may not be an eyewitness to the occurrence. Learned counsel thereafter draws the attention of the Court to paragraphs '7', '8' and '9' of the case diary wherein statements of Manish (cousin brother of the deceased), Pramod (younger brother of the deceased) and Pramila Devi (mother of the deceased) have been recorded wherein they have specifically stated that it was Rudal Rai who fired killing the deceased and they have not even remotely suggested that petitioner had fired at the deceased. Learned counsel next submits that Manish, Pramod and Pramila Devi are also eyewitnesses to the occurrence and no



mother would falsely implicate an innocent person knowing that he has not killed his son.

Learned A.P.P. for the State and learned counsel for the informant oppose the prayer for anticipatory bail of the petitioner but are not able to meet the submissions of the learned counsel for the petitioner that during the course of investigation the witnesses aforesaid have not even remotely suggested that petitioner had fired at the deceased and that only two firearm wounds were found on the body of the deceased.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Salimpur P.S. Case No. 23 of 2020 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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