

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39643 of 2021

Arising Out of PS. Case No.-155 Year-2020 Thana- ISHAKCHAK District- Bhagalpur

TINKU YADAV @ SANJIV KUMAR Son of Ravindra Yadav Resident of
Village- Bandehra, P.S.- Pasraha, District- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Indrajit Kumar, Advocate
For the Informant	:	Mr.Baidyanath Thakur, Advocate
	:	Mr.Shankar Kumar Thakur, Advocate
	:	Mr.Prabhakar Thakur, Advocate
For the Opposite Party/s	:	Mr.Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

7 28-07-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

In compliance of the order dated 27.07.2022, the S.P.
(City) Bhagalpur along with the I.O. of Ishakchak P.S. Case No.
156 of 2020 is present as it has been submitted by the learned
A.P.P. for the State that the S.S.P., Bhagalpur has personally
requested that on account of illness, he was not in a position to
appear as such he has sent the S.P. (City) along with the I.O. and
informant of Ishakchak P.S. Case No. 156 of 2020.

The S.P. (City) very fairly submits that from perusal
of the allegation as alleged in Ishakchak P.S. Case No. 155 of
2020 and Ishakchak P.S. Case No. 156 of 2020, it appears that
there is some confusion, he next submits that he will look into



the matter personally. The S.P. (City) further submits that since two murders were committed as such it may be a possibility that informant of Ishakchak P.S. Case No. 156 of 2020 may have recorded his *fardbyan* what he heard at the place of occurrence.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 302, 120(B) and 34 of the Indian Penal Code read with Section 27 of the Arms Act.

Learned counsel for the petitioner submits that the petitioner has antecedent of five cases and the informant alleges that his brother was killed by the accused persons, including the petitioner, by firing indiscriminately.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, it is next submitted that the informant was present at the place of occurrence and he witnessed the occurrence but he had not identified the accused persons. It is submitted that Ishakchak P.S. Case No. 156 of 2020 was also instituted for the same occurrence and the F.I.R. was instituted by the police in which the present informant had clearly stated before the police that his brother-in-law was killed by his enemies, learned counsel thus submits that if the informant had identified the accused



persons who committed the offence then he would have disclosed their name to the informant of Ishakchak P.S. Case No. 156 of 2020, it is further submitted that *fardbyan* of the informant of Ishakchak P.S. Case No. 156 of 2020 was recorded earlier and the *fardbyan* of the present informant was recorded later but still the present F.I.R. came to be instituted earlier than Ishakchak P.S. Case No. 156 of 2020. It is further submitted that allegation is of indiscriminate firing by the accused persons leading to death of the deceased and the occurrence was disclosed by the informant who is brother-in-law of the deceased and was present with him at the time of occurrence as such it is alleged that he was able to identify all the named accused persons who had committed the occurrence. It is the further submission of the learned counsel for the petitioner that it absolutely does not stand to reason that if the accused persons were known to the informant then why they left the informant and thus created evidence against themselves, this amply demonstrates that the occurrence was not committed by the petitioner and he has been implicated in the present case falsely on account of political dispute as it is alleged that the wife of deceased had defeated the mother of co-accused Sanjeev Yadav in the panchayat election and for which dispute between the



parties was going on. Learned counsel next submits that had the informant identified the accused who committed the occurrence then definitely he would have disclosed the same to the informant of Ishakchak P.S. Case No. 156 of 2020 and the fact that Ishakchak P.S. Case No. 156 of 2020 does not contain the name of any of the accused who are named in the present F.I.R. that further demonstrates the falsity of the allegation.

Learned counsel for the petitioner submits that no doubt petitioner has antecedents but then the deceased also had antecedent of three cases and it may be a possibility that the occurrence took place in some other manner and the informant took the same as an opportunity to falsely implicate the petitioner because of the ongoing political dispute.

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 submission of the learned counsel for the petitioner with regard to the controversy which led to creating doubts with regard to veracity of the allegation as alleged in the Ishakchak P.S. Case No. 155 of 2020 if the allegation of Ishakchak P.S. Case No. 156 of 2020 is true.

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. 10,000/- (Rupees Ten Thousand) each 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 Ishakchak P.S. Case No. 155 of 2020 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

The personal appearance of the S.P. (City), Bhagalpur along with I.O. and informant of Ishakchak P.S. Case No. 156 of 2020 is dispensed with.

The petitioner shall co-operate in the investigation and trial, if any application is filed by the police with regard to non-cooperation of the petitioner in the investigation before the learned Trial Court, the learned Trial Court after giving opportunity to the petitioner for hearing shall pass order in accordance with law, i.e., if the learned Trial Court comes to a considered conclusion that the petitioner has evaded investigation the learned Trial Court shall be at liberty to cancel the bail bonds of the petitioner.

(Satyavrat Verma, J)

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