

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41160 of 2021**

Arising Out of PS. Case No.-4 Year-2020 Thana- SIKARHATTA District- Bhojpur

SHAILESH PANDEY @ SHAILESH KUMAR PANDEY @ SALESH KUMAR S/O KAMTA PANDEY R/O VILLAGE-SIKRAUL, P.S-SIKARHATTA, DISTRICT-BHOJPUR, BIHAR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravindra Kumar, Advocate

For the Opposite Party/s : Mr. Chandra Sen Prasad Singh, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER**

3 26-04-2022 Heard learned counsel for the petitioner and learned Additional Public Prosecutor appearing for the State.

Petitioner seeks regular bail in connection with Sikarhatta P.S. Case No. 04 of 2020 registered for the offences punishable under Sections 302/34 of the Indian Penal Code 1860 and Section 27 of the Arms Act.

The allegation, as per the First Information Report, is that the petitioner along with other accused persons shot the father of the informant dead.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case due to



previous enmity inasmuch as earlier for the murder of one of the brothers of the petitioner namely, Rajesh Kumar Pandey @ Barkun, a First Information Report was lodged being Sikrahata P.S. Case No. 93 of 2016 and the informant of that case namely Nagesh Kumar Pandey @ Chhotku was subsequently murdered and the informant of this case and other family members were made accused for which Piro P.S. Case No. 199 of 2018 was lodged in which the petitioner is an informant.

Learned counsel next submits that in order to implicate the petitioner and other witnesses of that case, the present false First Information Report has been lodged which would be evident from the fact that the FIR was registered on 1.2.2020 at above 6:30 PM in the evening, however, the same was sent to the learned Magistrate on 4.2.2020 after delay of three days. He further submits that from perusal of paragraphs-1 and 11 of the case diary, it would be evident that the Police has stated that the informant arrived at the Police Station on 1.2.2020 and submitted the written report but in paragraph-11 of the case diary, the Police has stated that the informant accompanied



the dead body to the hospital for postmortem and written report was brought by the Police from the place of occurrence. Accordingly, submission is that there is discrepancy in the statements recorded by the Police in paragraphs-1 and 11 of the case diary which creates doubt in the veracity of the prosecution story. He next submits that occurrence has taken place at 10:30 AM and the Police Station is merely 5 Kms. away from the place of occurrence, but the inquest report has been prepared after much delay i.e. at about 4:20 p.m.

On the other hand, learned counsel for the State submits that from perusal of the First Information Report it is evident that there is specific allegation against the petitioner that he along with other accused persons fired upon the father of the informant, due to which, he died and postmortem report supports the prosecution story.

Regards being had to the submission made by the parties and taking into consideration the fact that petitioner is the main assailant named in the First Information Report, prosecution case is supported by the postmortem report and the discrepancy as pointed out by the petitioner may be



explained by the Police during course of trial, I am not inclined to grant regular bail to the petitioner.

Accordingly, the prayer for bail of the petitioner stands rejected.

However, the petitioner may renew his prayer for bail after one year if the trial does not show any progress.

(Anil Kumar Sinha, J)

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