

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.40661 of 2021**

Arising Out of PS. Case No.-152 Year-2021 Thana- SHASTRINAGAR District- Patna

SANDEEP @ SANDEEP KUMAR Son of Randhir Singh Resident of  
Village- Durga Ashram Gali, Near Chhote Dham Mandir, Sheikhpura, P.S.-  
Shastri Nagar, District- Patna (Bihar).

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

with

**CRIMINAL MISCELLANEOUS No. 41749 of 2021**

Arising Out of PS. Case No.-152 Year-2021 Thana- SHASTRINAGAR District- Patna

RAVI RAJ @ RAVISH KUMAR SINGH S/O LATE LALA PANDIT R/O-  
NISHARPURA LAKH, P.S.-NAUBATPUR, DISTRICT-PATNA.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

with

**CRIMINAL MISCELLANEOUS No. 62360 of 2021**

Arising Out of PS. Case No.-152 Year-2021 Thana- SHASTRINAGAR District- Patna

DHIRAJ @ DHIRAJ KUMAR Son of Anil Singh Resident of Mohalla -  
Sheikhpura More in front of Pillar No.- 83, South 251/695, Baily Road, P.S.-  
Hawai Adda, District - Patna.

... .. Petitioner

Versus

The State of Bihar Bihar

... .. Opposite Party

**Appearance :**

(In CRIMINAL MISCELLANEOUS No. 40661 of 2021)

For the Petitioner/s : Mr.Rakesh Kumar

For the Opposite Party/s : Mr.Abhay Kumar Roy  
Mr. Ajit Kumar

(In CRIMINAL MISCELLANEOUS No. 41749 of 2021)

For the Petitioner/s : Mr.Ghanshyam Tiwary

For the Opposite Party/s : Mr.Manoj Kumar  
Mr. Ajit Kumar

(In CRIMINAL MISCELLANEOUS No. 62360 of 2021)

For the Petitioner/s : Mr.Sanjeev Ranjan

For the Opposite Party/s : Mr.Yogendra Kumar  
Mr. Ajit Kumar

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH**



ORAL ORDER

7      12-05-2022                      Heard learned counsel appearing on behalf of petitioner, learned counsel appearing on behalf of informant and learned A.P.P. for the State.

All the aforesaid three applications arise out of the Shastri Nagar P.S. Case No. 152 of 2021, registered for the offence punishable under Sections 307, 302 and 120(B) of Indian Penal Code and Section 27 of the Arms Act. Therefore, all the aforesaid three applications have been heard together and are being disposed of by this common order.

Let the defect(s) be removed within two weeks of the complete start of the physical Court in normal course.

The prosecution story, in brief, is that on 31.03.2021, the father of the informant namely Birendra Prasad started partnership with his friend Ravi and was running Mahavir Medical for the last two months. It is alleged that due to business rivalry co-accused Nitish, the owner of Anshika Pharma, always used to threaten the father of the informant to close the said shop otherwise he would be done to death but the father of the informant did not pay attention to any threat. It is further alleged that on 31.03.2021 at 7.30 P.M. at IGMS Gate No. 3, near Max Hospital Gali, while father of the informant was taking refreshment at Pintu Bhojnalay in the meantime, all



the accused persons named in the F.I.R. and some unknown persons attacked at the father of the informant with gun, pistol and as a result, he sustained serious firearm injuries and died at the hospital. It is further alleged that in course of firing, one boy also received firearm injuries, who is undergoing treatment at IGIMS, Patna.

Learned counsel appearing on behalf of the petitioner Dhiraj @ Dhiraj Kumar (Petitioner in Criminal Miscellaneous No. 62360 of 2021) submits that general and omnibus allegation has been made against first seven named accused persons in the F.I.R, who have resorted to indiscriminate firing as a result of which father of the informant Birendra Kumar sustained firearm injury and succumbed to his injuries in course of treatment at IGIMS. He next submits that there is no eye-witness to the alleged commission of murder of father of the informant. The murder took place near Braham Ashthani Gali, which is located near Gage No.3, IGIMS next to Max Hospital. It is his specific submission that the manner in which the allegation has been narrated in the fardbeyan recorded by the Police do not disclose the very fact that from whom the informant had gathered the knowledge about the alleged incident of murder of his father in absence of any eye-witness to the alleged incident. In absence of



disclosure made by the informant to that effect, the entire allegation made against the petitioner to have committed murder of the father of the informant is false and not sustainable. The petitioner has made specific statement in paragraph No. 7 and 8 of his bail application that petitioner is neither the proprietor of Anshika Pharma nor he is connected with co-accused Nitish with whom there was trade rivalry with respect to medicine shop located within the vicinity of IGIMS nor he is connected with any medicine racket, which is in operation near IGIMS locality. He further submits that from perusal of the F.I.R, it appears that the said Nitish, who is the proprietor of Anshika Pharma was having inimical term with the deceased, who was admittedly the owner of the medical shop, which is in the campus of IGIMS and for the said trade rivalry, the alleged incident took place with a motive to eliminate the deceased from the trade of medicine. The petitioner has clean antecedent and he is in custody since 01.04.2021.

Learned counsel appearing on behalf of Sandeep @ Sandeep Kumar (Petitioner in Criminal Miscellaneous No. 40661 of 2021) and Ravi Raj @ Ravish Kumar Singh (Petitioner in Criminal Miscellaneous No. 41749 of 2021) submits that direct allegation of trade rivalry is in between



deceased and one Nitish, who is the owner of Anshika Pharma. The petitioners are in custody since 03.04.2021 and 02.04.2021, respectively.

The State is led by Sri Ajit Kumar and Sri Yogendra Kumar, learned A.P.P. who have opposed the prayer for grant of bail to the above named petitioners have made emphatic reliance on paragraph No. 15 in which the statement of one Lal Mohan an independent witness has been recorded under Section 161 of Cr.P.C., who resides in the vicinity and he is the eye-witness to the alleged murder. He has stated that he has seen with his own eyes that all the accused persons named in the F.I.R. including the above named petitioners at the time of commission of murder. Learned counsel further submits that the accused Pintu Kumar, who is not named in the F.I.R. was apprehended along with co-accused Sandeep Kumar and Ravish Kumar Singh, who in their confessional statement have stated that the rivalry between the deceased and the petitioner is due to hotel which was owned by the deceased. The deceased had asked accused to run the hotel on his behalf. It is rivalry between Nitish and Birendra Kumar (deceased), which led to the commission of murder of the deceased. It has further been pointed out that in para 78 (12) of the case diary that all the



accused persons, including the petitioners are close friends and their complicity in commission of murder cannot be denied.

Having heard the rival submissions of the parties, perused the case diary. The fardbeyan of the informant was recorded on 31.03.2021 at emergency ward of IGIMS, Patna, which is government hospital. The alleged murder took place on 31.03.2021 at about 7.30 and subsequently the Police reached there after hearing the alleged murder of Birendra Kumar and Inquest report was prepared at about 2.00 A.M on 01.04.2021. From the very content of the allegation made in the F.I.R. it is not apparent as to who had disclosed to the informant about the commission of murder of his father. Informant is not the eye-witness. Autopsy was conducted and Postmortem report was prepared at IGIMS itself from which it appears that the deceased had sustained only one firearm injury. The petitioner has been roped in the present case on the basis of information given by the informant, but in course of investigation the materials which have been collected prima facie do not establish connection of the petitioners above named with the owner of Anshika Pharma or with deceased. Co-accused Pintu has not conferred the complicity of the present petitioners to have participated in commission of murder of the deceased. The only minuscule



evidence, which have been collected against the petitioners in their confessional statement but there is complete denial of their being associated either with the co-accused Nitish or with the deceased. There is no eye-witness. The petitioners have clean antecedent. Prima facie, I am of the opinion that the petitioners, above named, have made out a case to be released on bail.

The petitioners, above named (Criminal Miscellaneous No. 40661 of 2021, Criminal Miscellaneous No. 41749 of 2021 and Criminal Miscellaneous No. 62360 of 2021) are directed to be enlarged on bail on furnishing bail bond of Rs. 25000/- (Rs. Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned Addl. Chief Judicial Magistrate-IV, Patna in connection with Shastri Nagar P.S. Case No. 152 of 2021, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioners tamper with the evidence or the witnesses of the case, in that case, prosecution will be at liberty



to move for cancellation of bail of the petitioners.

(4) If the petitioners are found involved in similar nature of offence, after their release on bail, the trial Court shall take steps to cancel their bail bonds.

**(Purnendu Singh, J)**

manish/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

