

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40234 of 2022

Arising Out of PS. Case No.-120 Year-2021 Thana- MEHANDIA District- Jehanabad

MANOJ KUMAR S/O LATE RAJ MANGAL SHARMA Resident of Village-
Rajkharsa, P.S.- Mehndiya, District- Arwal.

... .. 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 SATYAVRAT VERMA
ORAL ORDER

3 08-12-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 302, 34 and 201 of the Indian Penal Code and Section 27 of the Arms Act.

The informant alleges that on 08.09.2021 at 7:30 pm, petitioner along with Avinash came to his house on a vehicle and his son accompanied them to Mehndiya market and when his son did not return till 10:30 pm, a search was made and in course of search near village Sarwarpur, they saw a vehicle in which petitioner and Avinash were sitting and they fired at his son and fled away and thereafter on the next day the dead body of his son was found near Belsar Temple.

Learned counsel for the petitioner submits that the



petitioner has antecedent of three cases out of which in one case he has been acquitted and has been falsely implicated in the present case, it is next submitted that from bare perusal of the allegation as alleged in the FIR it would manifest that the informant alleges that when his son did not return till 10:30 pm, a search was made and during the course of search they saw a Bolero vehicle in which petitioner along with Avinash were sitting and the informant saw them firing at his son, it is thus submitted that if the informant had seen the occurrence of firing by the accused persons including the petitioner then why he did not immediately rush to the police station, it is also submitted that this conduct of the informant creates doubt as to whether he was an eye witness to the occurrence or not. Learned counsel further submits that the informant alleges that petitioner and Avinash came and his son left along with him, this amply demonstrates that the relationship between the petitioner, Avinash and the deceased was cordial as he accompanied them willingly, it is further submitted that had the relationship been strained then definitely the deceased would not have accompanied them or the family members of the deceased would have protested and would not have allowed the deceased to accompany the accused persons. Learned counsel further



submits that from the investigation of CDR details it has come that petitioner was not present along with the deceased as would be evident from paragraph '29' and '42' of the Case Diary, it is next submitted that at paragraph '67' of the Case Diary statement of the Mause (brother-in-law of the informant) was recorded wherein he has very specifically stated that the deceased had accompanied Avinash and he has not even remotely suggested that petitioner also had accompanied Avinash when in the FIR it is alleged that it was Avinash and petitioner who had come to take the deceased. Learned counsel next submits that petitioner was contesting the election of Mukhiya and he came to be implicated at the behest of his rival.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner and submits that informant is an eye witness to the occurrence and during the course of investigation it has also come that petitioner was having relationship with sister of Avinash and the deceased used to tease the sister of Avinash on account of which the present occurrence took place, it is next submitted that petitioner also has antecedents.

Learned counsel for the petitioner rebuts the submission of the learned A.P.P. and submits that if the



relationship of the deceased would have been strained with Avinash or Manoj then definitely he would not have accompanied them as alleged in the FIR, as such, the submission that the occurrence took place on account of some illicit relationship is only a figment of imagination, it is further submitted that if what the informant alleges in the FIR is true then his conduct bellies the allegation for the reasons that no father after seeing the occurrence that his son has been shot by the accused persons including the petitioner would have kept on searching the deceased rather would have gone to the house of the accused persons immediately for finding out or to the police station. However, the learned counsel very fairly submits that petitioner will not evade the law and will cooperate in the investigation and will present himself as and when required by the investigating officer of the case so that the truth comes out.

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 trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case



is pending/successor court in connection with Mehendiya P.S.
Case No. 120 of 2021 subject to the conditions as laid down
under Section 438 (2) of the Cr.P.C.

Further, in the event, if the investigating officer of the
case files an application before the learned trial Court bringing
to its notice that the petitioner despite giving assurance to this
Court is not cooperating in the investigation or is not presenting
himself when called the learned trial Court after giving an
opportunity of hearing to the petitioner shall pass orders in
accordance with law and shall also have liberty to cancel his
bail bonds.

The learned trial Court is directed to send the copy of
this Order to the concerned P.S.

(Satyavrat Verma, J)

GauravSinha/-

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