

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54396 of 2021

Arising Out of PS. Case No.-125 Year-2020 Thana- BUNIYAD GANJ District- Gaya

Uttam Kumar Verma (Male), aged about 35 years, Son of Sri Shatrudhan Prasad at present residing at Mohalla Alipur, Police Station- Buniyadganj, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Manoj Singh, aged about 38 years, Male, Son of Rajeev Kumar Singh @ Rajiv Kumar Singh Resident of Mohalla- Manpur, Gopalganj Road, Baksariya Tola, Police Station- Buniyadganj, District-Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Janardan Prasad Singh, Sr. Adv. Mr. Upendra Kumar Singh, Adv.
For the State	:	Mr. APP
For the O.P. No.2	:	Mr. Krishna Prasad Singh, Sr. Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 30-03-2022 Heard Mr. Janardan Prasad Singh, learned senior advocate for the petitioner and Mr. Krishna Prasad Singh, learned senior advocate for the opposite party no.2. State is represented by learned APP.

The opposite party no.2 was granted anticipatory bail by this Court vide order dated 28.04.2021 passed in Cr. Misc. No. 38644 of 2020. While granting bail, this Court took into account that F.I.R. had been lodged against 12 unknown miscreants but later, on the statement of the petitioner herein, the name of the opposite party no.2 had also transpired.

It appears from the order dated 28.04.2021 referred



above that on account of the victim having received only one gun-shot injury which was clearly attributable to one Tinku Singh and not the opposite party no.2 and there being a background of enmity, the anticipatory bail was granted.

However, Mr. Janardan Prasad Singh, learned senior advocate has submitted that in the bail application preferred by the opposite party no.2, wrong case number was given with respect to his antecedent whereas the real cases lodged against him were of a more grave nature. He has further submitted that during course of investigation, many of the persons have testified to the fact that the opposite party no.2 had also opened fire to scare away the persons who had assembled at the place of occurrence. However, nobody appears to have stated that the shot fired by the opposite party no.2 hit any one of the person including the petitioner.

The learned counsel for the petitioner has further submitted that while granting bail to the opposite party no.2, many facts were not given due consideration namely the background facts and that the nature and gravity of the accusation required that anticipatory bail application of opposite party no.2 should have been rejected.

With reference to the aforesaid submission, learned



counsel for the petitioner has brought to the notice of this Court a judgment delivered by the Hon'ble Supreme Court in the case of ***Dr. Naresh Kumar Mangla Vs. Smt. Anita Agarwal & Ors.*** reported in ***AIR 2021 SC 277*** wherein it has been enumerated as to the factors which ought to be taken into account while granting anticipatory bail.

In the aforesaid case, the observations made by the Hon'ble Supreme Court in ***Siddharam Satlingappa Mhetre Vs. State of Maharashtra*** reported in ***(2011) 1 SCC 694*** has also been taken into account. The aforesaid grounds include the nature of gravity of the accusation and the exact role of the accused; the antecedents of the applicant; the possibility of the applicant fleeing from justice; the likelihood of the accused repeating similar or other offences and so on and so forth.

It appears from the order impugned that all these considerations have weighed with the Court in granting anticipatory bail to the opposite party no.2

The mistake in the listing of the cases against him was inadvertent and there does not appear to be any attempt to conceal the criminal background of the opposite party no.2.

So far as the accusation against the opposite party no.2 of threatening the witnesses in the case is concerned,



station diary entries and specific statement before the court below were shown to this Court

However, considering the inimical background between the parties and that such complaint of threatening has already been made before the competent court which has yet not passed any order, this Court does not consider it to be a good ground for interfering with the order granting bail to the opposite party no.2.

No good ground has been made out by the petitioner for cancellation of the bail of the opposite party no.2.

Considering the fact that considerations for grant of bail and cancellation of the same are different, this Court finds no reason to interfere with the order granting bail to the opposite party no.2.

The application seeking cancellation of bail of the opposite party no.2 is therefore dismissed.

(Ashutosh Kumar, J)

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