

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58867 of 2021

Arising Out of PS. Case No.-329 Year-2020 Thana- BARARI District- Katihar

DEEPAK BHAGAT Son of Shri Surendra Bhagat Resident of Village- Uchla
Sadak Tola, P.S.- Badachi, District- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Vaishnavi Singh, Advocate
For the Opposite Party/s : Mr. Upendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 11-07-2022 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 and 34 of the Indian Penal Code read with Section 27 of the Arms Act.

Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and the informant alleges that on 18.12.2020 at around 6:00 in the evening while he was buying vegetable from market, he heard sound of firing on which he approached the place of occurrence and saw that his younger brother was lying on the ground in a pool of blood and also saw Dharmendra Yadav, Guddu Yadav and Md. Junaid running with country-made pistol in their hand and saying that they killed Kumod Yadav, it is next alleged that with the help of others, the injured was brought to the hospital for treatment



where his brother disclosed that Dharmenda Yadav shot him on his cheek and Guddu Yadav and Md. Junaid shot him in the back and accused were helped by Deepak Bhagat (petitioner) and Suraj Kumar (cousin brother of Guddu Yadav). It is next alleged that his brother was referred to Sadar Hospital, Katihar for better treatment and on reaching Sadar Hospital his brother was declared dead.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, it is next submitted that the FIR is in two parts, the informant initially alleges that when he reached the place of occurrence he saw three accused persons but does not even remotely suggest that he saw Deepak Bhagat the present petitioner. It is next submitted that thereafter it is alleged that the injured during the course of treatment disclosed that the accused persons who shot him were helped by this petitioner and Suraj Kumar, it is thus submitted that it absolutely does not stand to reason that a person who has been shot in his cheek would be in a position to talk and thus disclose the occurrence. Learned counsel further draws the attention of the Court to the injury report of the deceased (Annexure-2 to the anticipatory bail application) and submits that the postmortem report records one lacerated wound



over left angle of mouth (cheek) charring and everted, it is thus submitted that if there was a charring wound then it means that the deceased was shot from a very close range and hence he would not have been in a position to disclose about the occurrence. It is next submitted that even presuming what has been alleged in the FIR is true without admitting then also allegation of firing is not against the petitioner.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

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 Barari P.S. Case No. 329 of 2020 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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