

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67260 of 2021

Arising Out of PS. Case No.-67 Year-2021 Thana- BENIPATTI District- Madhubani

BABAN SINGH @ VAVAN SINGH Son of Late Rajendra Singh Resident of
Village- Mahamadpur, P.S.- Benipatti, District- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Nirmal Kumar Sinha, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 10-11-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 147, 148, 149, 341, 323, 324, 325, 326, 307, 302 and 120(B) of the Indian Penal Code and Section 27 of the Arms Act.

The informant alleges that on 29.03.2021 at about 01:00 PM from a distance of 150 meters towards Northern direction of the house of Rudra Narayan Das, he heard sound of firing and *halla* of people, thus he ran towards the direction and reached near the house of Rudra Narayan Das, from where he saw Musafir Singh, Bhav Narayan Jha and Ghanshyam Jha giving orders to the accused persons to kill, upon which Praveen Jha and Naveen Jha shot at his nephew, Rana Pratap Singh, who fell down and thereafter accused Shiveshwar Bharti alias Ful



Babu tore the stomach of Rana Pratap Singh with *Bhujali*, it is next alleged that Chandan Jha, Koushik Singh, Baban Singh (petitioner), Munna Singh and Jhuna Singh fired indiscriminately with the individual pistol at his nephew, namely, Birendra Singh alias Biru Singh who was badly injured, it is further alleged that Bhola Singh, Kamlesh Singh, Manoj Jha, Surjeet Singh and Vivek Kumar Singh fired individually upon his nephew, namely, Ranvijay Singh and also assaulted him with iron pipe on account of which he sustained injuries and he died at the spot, it is next alleged that Amarjeet Jha, Ashok Singh, Manoj Singh, Umesh Singh and Mukesh Safi fired individually with their pistol on his nephew Amrendra Singh and also assaulted him with iron pipe on account of which he also sustained injury. Thereafter, it is alleged that Sujay Safi, Prashant Jha, Vishwajeet Kumar, Anant Choudhary and Ankit Jha assaulted his son namely Manoj Singh with pistol, iron rod and iron pipe on account of which he received injuries, thereafter the injured was brought to Bennipati hospital and all were referred to PMCH where during treatment Biru Singh died, it is next alleged that two persons had already died at the spot. Thereafter, the informant came to know that other co-accused persons, namely, Rajesh, Shobha Kant, Rishikesh, Devendranath



Thakur and Sunaina Devi had also assembled at the house of his co-villager Ashok Singh and planned a conspiracy and thereafter the present occurrence was committed.

Learned counsel for the petitioner submits that petitioner has antecedents of two cases and from bare perusal of the allegations as alleged in the FIR it would manifest that the allegations are inherently improbable and patently absurd, it is next submitted that it absolutely does not stand to reason that informant in the FIR alleges that on hearing sound of firing he rushed towards the place of occurrence and even saw the occurrence being committed by the accused persons, it is next submitted that in the FIR it is alleged that on hearing the firing of gun, he ran about 100-150 meters and thereafter he saw the occurrence, it is thus submitted that it is humanly not possible to give so specific in alleging that which accused was carrying which weapon with such precision and it is very difficult to remember all the names when own family members are being assaulted and that too in such a brutal manner. Learned counsel next submits that the informant is related to the deceased and he was present at the place of occurrence when such a heinous act is being committed in which five persons died, it is further submitted that it absolutely does not stand to reason that when



accused were committing the occurrence and the informant being relative of the deceased was present at the place of occurrence and was witnessing the occurrence with so close range then why the accused persons did not kill him and thus allowed him to go scot-free for creating evidence against themselves. Learned counsel next submits that co-accused Vivek Kumar Singh, Surjit Kumar, Manoj Jha and Musafir Singh have been granted anticipatory bail by order dated 07.07.2022 in Criminal Misc. No. 51745 of 2021 taken up analogous with other Criminal Miscellaneous, it is next submitted that Bhavya Narayan Jha has also been granted anticipatory bail by Order Dated 18.07.2022 in Criminal Misc. No. 63491 of 2021. Learned counsel further submits that the allegation against this petitioner and Bhavya Narayan Jha is similar.

Learned A.P.P. for the State and learned counsel for the informant opposed the anticipatory bail of the petitioner and submits that there is a direct allegation against this petitioner along with Chandan, Munna, Jhunna and Koushik of firing at Birendra, nephew of the informant who died in course of treatment, it is next submitted that from perusal of the postmortem report of Birendra at paragraph '146' of the Case



Diary it would manifest that he had suffered three gun shot injuries and two mark of gun shot was found on his cloth that is those two bullets did not hit him but scratched through his cloth, as such, if the scratch on the cloth is also taken into account then the deceased would have received five gun shot injuries, it is next submitted that no doubt the aforesaid accused persons have been granted anticipatory bail but then the case of this petitioner is different from Vivek Kumar Singh and other accused as they were persons with clean antecedent, further as far as Bhavya Narayan Jha is concerned, he was granted anticipatory bail mainly on the ground that he was 85 years old, it is next submitted that even the witnesses at paragraph 9, 10, 11, 337, 338 and 339 of the Case Diary have supported the prosecution case against the petitioner.

Considering the submission made by the learned A.P.P. and the learned counsel for the informant the Court is not inclined to extend the privilege of anticipatory bail to the petitioner.

(Satyavrat Verma, J)

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