

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.634 of 2022

Arising Out of PS. Case No.-102 Year-2021 Thana- NOWKOTHI GARHPURA District-
Begusarai

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BABBAN SINGH S/o Sri Tuna Singh Resident of Village- Pahsara, P.S. -
Nawkothe, District - Begusarai.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mrs. Soni Srivastava, Advocate
		Mr. Arjun Prasad, Advocate
For the Opposite Party/s :		Mr. Satya Nand Shukla, A.P.P.
For the Informant	:	Mr. Shashank Shekhar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 04-08-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

Let the defect(s), if any, be removed within a period
of four weeks.

The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 302 and
120(B)/34 of the Indian Penal Code read with Section 27 of the
Arms Act.

Learned counsel for the petitioner submits that
petitioner has antecedent of six cases.

From perusal of the allegation as alleged in the FIR, it
would manifest that informant got her *fardbeyan* recorded on
23.07.2021 alleging therein that on 22.07.2021, at about 06:15



a.m., six accused persons came on three motorcycles and on the issue of non-fulfillment of demand of ransom, they started abusing the husband of the informant and fired at him on account of which her husband died. It is alleged that apart from the six named accused persons, who fired indiscriminately, the present petitioner along with four others are also involved in the occurrence. It is alleged that land dispute between the parties is existing from before.

Learned counsel for the petitioner submits that from bare perusal of the allegation as alleged in the FIR, it would manifest that there is specific allegation of firing against six accused persons. It is further submitted that this petitioner was not present at the place of occurrence which manifests from the allegation. It is next submitted that based on suspicion the informant has implicated the present petitioner falsely. Learned counsel further submits that earlier the son of this petitioner had instituted Nowkothi P.S. Case No. 71 of 2021, dated 27.05.2021, in which the relative of the deceased were accused. Learned counsel, thus, submits that in the present FIR the informant, by way of afterthought, implicated the petitioner, who is father of the informant of Nowkothi P.S. Case No. 71 of 2021, so that the son of the petitioner is coerced into submission to settle the said



case. It is further submitted that even the allegation as alleged in the FIR does not inspire confidence when absolutely no motive has been assigned against the petitioner for being involved in the occurrence when admittedly there is no land dispute between the family of the deceased and the petitioner. Learned counsel next submits that from perusal of the antecedents of the petitioner at para 3 of the anticipatory bail application, it would manifest that all the cases are of the same police station in which the petitioner after institution of the first case came to be implicated in the subsequent cases.

Learned A.P.P. and learned counsel for the informant opposed the prayer for anticipatory bail of the petitioner. Learned counsel for the informant very fairly submits that no doubt in the FIR, apart from suspicion, no specific allegation has been alleged against the petitioner but then process under Section 82 Cr.P.C. was issued on 28.07.2021. Learned counsel, thus, submits that the petitioner has not challenged the order by which process under Section 82 Cr.P.C. was issued, as such, the order presently is in existence.

Learned counsel for the petitioner rebuts the submission of the learned counsel for the informant and submits that it absolutely does not stand to reason that how within five



days of the occurrence process under Section 82 Cr.P.C. came to be issued. It is next submitted that petitioner was completely unaware of his false implication in the present case or else he would have moved the learned District Court for seeking anticipatory bail but when he came to know about his false implication he started availing his remedy available in law.

After hearing the learned counsel for the parties, the Court is satisfied that on merits the petitioner has a case for consideration for anticipatory bail as in the FIR no specific allegation has been alleged against him, rather a suspicion has been raised but then petitioner has a valid defence in his favour as it has been submitted that the son of the petitioner, two months prior of the present occurrence, had instituted Nowkothi P.S. Case No. 71 of 2021 in which family members of the deceased of the present case were made accused.

The Court, initially, was persuaded to grant anticipatory bail to the petitioner but for the submissions made by the learned counsel for the informant that process under Section 82 Cr.P.C. has been issued and the same is still in existence, as such, the Court is not exercising its jurisdiction to extend the privilege of anticipatory bail to the petitioner in connection with Nawkothi P.S. Case No. 102 of 2021 pending in



the Court of learned Judicial Magistrate, 1st Class, Begusarai.

In the event, if the petitioner surrenders before the learned Trial Court on or before 25.08.2022 and on prayer for regular bail, the learned Trial Court shall dispose of the same on the same day, keeping in mind the observations made hereinabove.

(Satyavrat Verma, J)

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