

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34438 of 2023

Arising Out of PS. Case No.-194 Year-2020 Thana- SAMASTIPUR District- Samastipur

Alok Kumar @ Ashutosh Kumar @ Ambani Son of Sri Satrudhan Prasad
Singh resident of Village - Mahisour, PS - Jandaha, District - Vaishali
... .. 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. Chandra Bhushan Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 25-08-2023 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 302 and
506/34 of the Indian Penal Code and Section 27 of the Arms
Act.

3. Learned counsel for the petitioner submits that
petitioner has antecedent of seven cases out of which he has
been acquitted in two cases. It is further submitted that from
perusal of para 3 to the anticipatory bail application, it would
manifest that petitioner came to be implicated in all the seven
cases in the year 2017. It is, thus, submitted that once the
petitioner was implicated in one case thereafter he started
getting implicated in other cases also in the same year.

4. The informant, who is the mother of the deceased,



has alleged that she resides along with her son Mukesh Kumar @ Rinku Choudhary (deceased), daughter-in-law Anuradha Kumari and granddaughter Paridhi Kumari. It is further alleged that she along with her daughter-in-law were inside the house while her son was sitting on a chair in the clinic and her granddaughter was riding a bicycle which was being watched by her son. It is next alleged that at 09:45 p.m. she heard a sound of firing but thought that some crackers may have been bursting but when she came out she saw 6-7 persons had surrounded her son and four of them were firing indiscriminately and the gate was also closed from outside. On alarm being raised, the miscreants started fleeing but she was able to identify Tinku Kumar @ Avinash Kumar, Banti Kumar @ Prince, Nitesh Kumar, Prakash Kumar Verma @ Soren, Chandeshwar Das @ Babaji, Vishal Kumar @ Vijay Mukhiya, Vikash Yadav, Shiv Shankar Rai and Amarjeet Jha. It is further alleged that Tinku, Banti, Nitesh, Prakash and Chandeshwar were carrying weapons and were brandishing the same while fleeing and the accused persons threatened that if any case is lodged all of them will be killed. Thereafter the injured was taken to the hospital where he was declared dead.

5. Learned counsel for the petitioner submits that



petitioner has been falsely implicated in the present case. It is further submitted that from perusal of the allegation as alleged in the FIR, it would manifest that the informant has named the accused persons whom she even identified. It is next submitted that the informant has given the details of the name of the accused persons with precision i.e. who were the accused persons who were carrying arms and while fleeing how they were brandishing the same. It is also submitted that petitioner is not named in the FIR and his name transpired in the confessional statement of Ramjeevan Kumar Paswan. It is submitted even Ramjeevan Kumar Paswan has not been named in the FIR and he was arrested and has been granted the privilege of regular bail by a Coordinate Bench of this Court vide order dated 19.09.2022 in Cr. Misc. No. 5131 of 2022. Learned counsel further submits that during the course of investigation even the CCTV footage of the occurrence was investigated by the Investigating Officer of the case and it has been recorded in detail at para 86 of the case diary that four persons on two motorcycles came and one person was wearing an army pant and they were talking, thereafter it was seen in the footage that those four persons fired indiscriminately at the deceased and one of the assailants was wearing a helmet, further



after committing the occurrence the accused persons fled away and thereafter the mother and wife of the deceased came out, even the daughter of the deceased was seen cycling in the footage, further one Sanjay @ Fuso was identified by Ritesh Kumar. Learned counsel thus submits that what has been recorded at para 86 of the case diary from the same it can be culled out that the informant is not an eyewitness to the occurrence as she came out of the house after the occurrence was over and the accused persons had fled, further the number of the accused, who committed the occurrence, were only four who also fired indiscriminately at the deceased, thus, it appears that the informant for some personal reason has named many of the accused persons in the FIR, though petitioner is not named in the FIR. Learned counsel next submits that no doubt an occurrence has been committed, the person has died but whether petitioner had any role in the occurrence is a question of investigation. It is thus submitted that petitioner will not abscond rather will cooperate in the investigation and will present himself as and when required by the investigating officer of the case for eliciting the truth and proving his innocence.

6. Learned A.P.P. for the State vehemently opposes



the prayer for anticipatory bail of the petitioner but then fairly submits after perusing the case diary that what has been submitted by the learned counsel for the petitioner with regard to the CCTV footage is not denied.

7. 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.25,000/- (Rupees Twenty-five Thousand) 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 Samastipur Town P.S. Case No. 194 of 2020, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

8. One of the bailors of the petitioner shall be his father, namely, Satrudhan Prasad Singh.

9. However, it is made clear that if the investigating officer of the case files an application bringing to the notice of the learned court below that petitioner despite giving assurance to this Court is not cooperating in the investigation or is not presenting himself when required by the investigating officer, the learned court below shall be at liberty to cancel the bail



bonds of the petitioner forthwith after recording reasons and to take all coercive steps that petitioner is put behind bars.

10. Let a copy of this order be sent to the concerned police station through the learned court below.

11. However, it is made clear that if the charge-sheet is submitted against the petitioner connecting him with the offence, the present anticipatory bail order shall lose its effect.

12. However, the petitioner would be at liberty to resort his remedy available in law.

(Satyavrat Verma, J)

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