

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36758 of 2023

Arising Out of PS. Case No.-139 Year-2023 Thana- AGAMKUAN District- Patna

Munna Yadav S/O Late Ramashish Yadav R/O Mohalla- Badi Pahari, P.S-
Agamkuan, Distt.- Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar Mouar, Adv.
For the State	:	Mr. Nand Kishore Prasad, APP
For the Informant	:	Mr. Ram Pravesh Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 27-07-2023 Heard Mr. Arvind Kumar Mouar, learned counsel appearing on behalf of the petitioner and Mr. Ram Pravesh Kumar, learned counsel for the informant as well as Mr. Nand Kishore Prasad, learned Additional Public Prosecutor for the State.

2. At the outset, learned counsel for the petitioner seeks permission to make necessary correction in paragraph no. 1 of the application. Permission is accorded. Let the same be done during the course of the day.

3. The petitioner apprehends his arrest in connection with Agamkuan P.S. Case No. 139 of 2023, registered for the offences punishable under Sections 302, 120(B) of the Indian Penal Code and Section 27 of the Arms Act.



4. Allegedly, while the informant and his brother were returning to home along with their friends on two motorcycles, in the meantime, all the FIR named accused persons, including the petitioner, and some unknown persons intercepted them. It is further alleged that Roushan Sharma, Anand Prakash @ Mukhiya Jee, Ram Pravesh Mahto and Satyendra Singh fired upon the brother of the informant resulting into his instantaneous death. Further allegation has been levelled that while the informant tried to rescue his elder brother, co-accused Sanny Kumar, Shyam Kumar and Munna Yadav (petitioner) forbade him on the point of pistol and also made firing but fortunately the same did not hit to any one.

5. Learned counsel appearing on behalf of the petitioner submits that surprisingly soon after the occurrence the police reached at the place of occurrence but no *fardbeyan* was recorded and on the next date the written report has been submitted before the concerned SHO. From the narration of the FIR it is also evident that occurrence took place at 11:05 in night but the manner in which the incident has been precisely stated as to who fired on which portion of the body of the deceased, makes the entire prosecution case doubtful. He next submits that in fact the FIR shows the deliberation and afterthought and the



name of the petitioner has been implicated due to he being staff of co-accused Satyendra Singh.

6. On the other hand, learned counsel for the informant as well as the State vehemently opposed the bail application and submit that all the accused persons, by forming an unlawful assembly with common object, made indiscriminate firing resulting into the death of the brother of the informant and the presence of the petitioner has been disclosed by the informant and others. They further submit that the petitioner is also carrying two criminal antecedents.

7. Having regard to the submissions made on behalf of the parties and considering the nature of accusation and the fact that all the co-accused persons by forming an unlawful assembly in execution of common object, has shot dead the brother of the informant, apart from the fact that the petitioner is carrying two criminal antecedents, as mentioned in the paragraph no. 3, the present application stands rejected.

(Harish Kumar, J)

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