

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42975 of 2022

Arising Out of PS. Case No.-4 Year-2017 Thana- MURLIGANJ District- Madhepura

NISHANT NIL @ LADDU SON OF MAHANAND YADAV R/O
VILLAGE- GANGAPUR, WARD NO.-6, P.S.- MURLIGANJ, DISTRICT-
MADHEPURA, AT PRESENT RESIDENT OF PROFESSOR COLONY
WARD NO.5, P.S.- AND DISTRICT- MADHEPURA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N.K.Agrawal, Sr. Advocate

Mr.Manoj Kumar Pandey

For the Opposite Party/s : Mr.Ram Priya Sharan Singh, APP

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

3 12-01-2023 The learned counsel for the petitioner is directed

to remove all the defects pointed out by the Stamp Reporter
within one month.

Heard the learned counsel for the petitioner and
the learned APP for the State.

The petitioner apprehends his arrest for the
offences alleged under Sections 302, 120(B) and 34 of the
Indian Penal Code and Section 27 of the Arms Act registered in
connection with Murliganj P.S.Case No. 04 of 2017.

The informant, Dezi Kumari is the wife of the
deceased Manish Kumar Yadav. On 05.01.2017 at about 4.45
p.m., she went to visit her wheat field. Suddenly, she heard the
sound of fire shot. She rushed there and saw that the petitioner,
along with three unknown persons after firing shot at her
husband, was fleeing away. There was dispute between the
deceased and the petitioner for partition of their land. On earlier



occasion also, the petitioner had threatened him to kill.

The learned counsel for the petitioner has submitted that he is innocent. He was not sent up for trial. But differing with the opinion of the investigating authority, the court below took cognizance of the offence. That cognizance order was challenged before the District and Sessions Judge in revision and he remanded back the matter to the learned court below, but again the learned court below has taken cognizance. He has submitted further that the petitioner is a person of clean antecedent and he is not a criminal.

On the other hand, the learned APP for the State has opposed the prayer for anticipatory bail. He has submitted that the informant is the eye-witness of the occurrence. She has stated categorically that she had seen the petitioner firing shot at the person of her husband. The witnesses in the case diary have also supported the occurrence and named the petitioner. The investigating authority submitted final form merely on the basis of tower location of the mobile set of the petitioner. At the time of occurrence, the tower location of the mobile set of the petitioner was traced to somewhere else and it was the only reason that the investigating authority has submitted the final form against the petitioner. He has submitted further that in



supervision note no.4, the Superintendent of Police did not concur with the opinion of the I.O. and directed him to proceed with the investigation also against the petitioner. Lastly, the final form was submitted on the basis of the supervision note of the I.G.

The informant, who is the eye-witness, has supported the occurrence. She has seen the petitioner opening firing on her husband. The witnesses have also corroborated her statement. The learned CJM has taken cognizance. As such, I do not think it a fit case for anticipatory bail.

The prayer for anticipatory bail on behalf of the petitioner is accordingly rejected.

Office shall ensure that all defects are removed by the petitioner within the stipulated time as provided hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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