

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44375 of 2023

Arising Out of PS. Case No.-84 Year-2023 Thana- KEWATI District- Darbhanga

BISHAMBHAR YADAV @ BISHAMBAR KUMAR YADAV son of Late
Shyam Kishore Yadav Village- Dudhiya Ps- Kamtaul Dist- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Samrendra Kumar Jha, Advocate
For the Opposite Party/s	:	Mr. Sanjay Kumar Singh, APP
For the Informant	:	Mr. Syed Ashfaque Ahmad, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 25-08-2023 1. Heard learned counsel for the petitioner, learned A.P.P. for the State along with learned counsel for the informant.
2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 302, 120(B) and 34 of the Indian Penal Code and under Section 27 of the Arms Act.
3. Learned counsel for the petitioner submits that the petitioner has antecedent of one case, but police after investigation submitted final form in his favour.
4. The informant alleges that his brother was standing near the house of Ram Chandra when he saw the petitioner and Abhishek going on a motorcycle in the direction of his brother and other named as well as unknown accused were following



them in a Scorpio vehicle, it is next alleged that on orders of Surendra, who was in Scorpio vehicle, Abhishek fired at his brother, thereafter, accused persons sitting in Bolero also started firing and thereafter the accused persons fled.

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, it is next submitted that petitioner and the informant are known to each other and are also having dispute from before. It is next submitted that Kamtaul P.S. Case No. 127 of 2018 was instituted against present informant, deceased and others by Bipin Yadav, a cousin of the petitioner, in which police submitted charge sheet and petitioner is a witness, thereafter, Keoti P.S. Case No. 131 of 2018 was instituted against mother of the informant who is a PDS dealer by the authorities in which Abhishek is a witness and petitioner and Abhishek are related to each other and thus have been implicated. It is further submitted that Kamtaul P.S. Case No. 13 of 2019 was instituted by the uncle of petitioner against the informant and the deceased for killing his another uncle, learned counsel thus submits that present case is a counterblast to Kamtaul P.s. Case No. 13 of 2019 and 127 of 2018.

6. Learned counsel for the petitioner next submits that



it absolutely does not stand to reason that when petitioner and the informant were known to each other and the informant had seen the occurrence being committed by Abhishek on orders of Surendra and then where was the occasion for the accused persons to leave him and create evidence against themselves when it is not the case of the informant that he was witnessing the occurrence from some place where he had concealed himself. Learned counsel further submits that no doubt one person has died, but then whether petitioner was instrumental in killing of the deceased is an issue which needs to be investigated. It is next submitted that though one case was instituted against the petitioner, but then police after investigation submitted final form in his favour. Learned counsel for the petitioner next submits that the petitioner will not abscond rather will co-operate in the investigation and will present himself as and when required by the Investigating Officer of the case for eliciting the truth and for proving his innocence and even presuming what has been alleged is true without admitting then petitioner is not said to be the assailant of the deceased.

7. Learned A.P.P. for the State along with learned counsel for the informant vehemently oppose the prayer for



anticipatory bail of the petitioner but then are not in a position to rebut the submissions of the learned counsel for the petitioner that there are previous existing dispute between the parties and petitioner is not alleged to be the assailant of the deceased.

8. 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 trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Keoti (Kewati) P.S. Case No. 84 of 2023 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

9. However, it is made clear that in the event if the Investigating Officer of the case files an application before the learned Trial Court bringing to its notice that the petitioner despite giving assurance to this Court is not co-operating in the investigation or is not presenting himself as and when called for, the learned Trial Court shall be at liberty to cancel the bail bonds of the petitioner after recording reasons.

10. Let a copy of this order be also sent to the



concerned Police Station through the learned Trial Court.

11. It is further made clear that in the event if the charge sheet is submitted connecting the petitioner with the offence, in the event the present anticipatory bail order shall come to an end.

12. Learned counsel for the informant, at this stage, submits that petitioner has not approached the Court with clean hands, it is next submitted that petitioner has two antecedents out of which police, after investigation, submitted final form in one case.

13. The learned Trial Court before accepting the bail bonds of the petitioner shall verify the criminal antecedent of the petitioner and in the event, if it is found that petitioner has antecedent of two cases and even if final form has been submitted in one case then also the present anticipatory bail order shall not be acted upon.

(Satyavrat Verma, J)

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