

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50018 of 2022

Arising Out of PS. Case No.-94 Year-2022 Thana- NAUBATPUR District- Patna

Sanu Kumar @ Sonu Kumar S/O Pappu Singh @ Pappu Kumar, Resident of
village- Chhoti Tengraila, P.S.- Naubatpur, District- Patna, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 50682 of 2022

Arising Out of PS. Case No.-94 Year-2022 Thana- NAUBATPUR District- Patna

Monu Kumar, S/o Pappu Singh @ Pappu Kumar Resident of Village- Chhoti
Tengraila, P.S.- Naubatpur, District- Patna, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 50018 of 2022)

For the Petitioner/s : Mr. Neeraj Kumar, Advocate

Mr. Binod Pd. Singh, Advocate

For the Opposite Party/s : Mr. Amit Kumar Rakesh, APP

Mr. Nagendra Sharma, Advocate

(In CRIMINAL MISCELLANEOUS No. 50682 of 2022)

For the Petitioner/s : Mr. Hans Raj, Advocate

Mr. Binod Pd. Singh, Advocate

For the Opposite Party/s : Mr. Amit Kumar Rakesh, APP

Mr. Nagendra Sharma, Advocate

Mr. Ramanath Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 12-01-2023 Heard learned counsels for the petitioners, the State
and the informant.

The two brothers Sanu Kumar @ Sonu Kumar (Cr.
Misc. No.50018 of 2022) and Monu Kumar (Cr. Misc.
No.50682 of 2022) are apprehending arrest in connection with
Naubatpur P.S. Case No.94 of 2022 instituted under Sections



302,120B of Indian Penal Code and under Section 27 of the Arms Act.

As per the prosecution story, the two brothers-petitioners along with their associate came on a motorcycle to the house of the informant and on the instigation of their mother, opened fire causing death of the brother-in-law (Devar) of the informant. Accordingly, the FIR was lodged.

The alibi of both the brothers in the petition was/were that while Sanu Kumar is a student of Rajiv Gandhi Proudyogiki Vishwavidyalaya at Bhopal and was appearing in the practical exam on that date, so far as Monu Kumar is concerned, he was present in a Mall at Hazaribag (Jharkhand) and they had put forward materials in support of their respective claims.

Taking into account the aforesaid facts a coordinate bench of this Court on 28.09.2022 (relating to the case of Sanu Kumar) had impleaded the concerned Institute as opposite party no.2 with the direction to file reply while granting interim relief to him.

In the case of Monu Kumar, the same co-ordinate bench vide an order dated 19.10.2022 had directed the State to file a counter affidavit. In that case also interim relief was extended to Monu Kumar.



A counter affidavit has now come on behalf of the Incharge Superintendent of Police, West, Patna and the relevant paragraphs are incorporated herein below:

“4. That it is stated that the Superintendent of Police (West), District Patna carried out necessary investigation/enquiry and ultimately, he has issued Final Order/Report 4 under Memo No.74 dated 4 January, 2023.

A copy of the Memo No.74 dated 4 January, 2023 is annexed herewith and marked as Annexure-A to this counter affidavit.

5. That as per the report, it is apparent that no evidence has transpired against this petitioner as well as his brother, namely, Saanu Kumar @ Sonu Kumar also in connection with the Naubatput Police Station Case No.94 of 2022 dated 19 February, 2022 instituted under Sections 302/120B/34 of the Indian Penal Code as well as under Section 27 of the Arms Act and it is a case of lack of evidence against



the petitioner.

6. That it is humbly stated and submitted in view of the letter 727(b) dated 09.06.2022 and enquiry was made by the Investigating officer Cum Station House Officer, Naubatpur Police Station, Patna and it has been found that this petitioner on 18 February, 2022 purchased garments from Rahul Garments, Hazaribagh, Jharkhand and on the date of incident on 19 February, 2022 he was in Hazaribagh along with his brother-in-law, namely, Sandeep Kumar Singh which got established from the mobile tower location of the petitioner.

7. That in the aforesaid background the present counter affidavit may be permitted to be filed.

8. That it is also pertinent to mention here that the investigating officer visited the State of Jharkhand in order to carry out the investigation and thereafter collected evidence in the case which establishes that the petitioner has got no role in the commission of the



alleged crime.

9. That shortly final form would be filed in the case against the petitioner and his brother, namely, Saanu Kumar @ Sonu Kumar.

10. That in the aforesaid background, the present counter affidavit is submitted for kind consideration.”

Learned counsel for the petitioners submit that in view of the counter affidavit filed on behalf of the Incharge Superintendent of Police, West, Patna in which it has clearly stated that they are going to submit final form so far as these petitioners are concerned, the apprehension of arrest no longer exists and as such they may be permitted to withdraw the two petitions put forward by them with liberty to seek appropriate remedy at an appropriate stage.

Learned counsel for the informant on the other hand submits that there are evidence to support the prosecution story against these two petitioners and in that backdrop he had opposed grant of anticipatory bail.

Learned counsel for the State also submits that now since the apprehension part is missing, the petitions for the present have become infructuous.



Taking into account the counter affidavit that has come duly put on affidavit by the Incharge Superintendent of Police, West, Patna and the respective submissions put forward by the learned counsels for the petitioners, this Court is allowing the prayer for the withdrawal of the two petitions.

The Cr. Misc. No.50018 of 2022 (Sanu Kumar @ Sonu Kumar) and Cr. Misc. No.50682 of 2022 (Monu Kumar) are accordingly stands disposed of.

(Rajiv Roy, J)

Prakash Narayan /-

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