

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52563 of 2022**

Arising Out of PS. Case No.-149 Year-2021 Thana- SITAMARHI District- Sitamarhi

HIMANSHU KUMAR JHA SON OF DEEPAK KUMAR JHA R/O
VILLAGE- MADHOPUR, P.S.- BATHNAHA, DISTRICT- SITAMARHI

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vikash Kumar Jha, Advocate

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

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

6 22-05-2023 Heard the learned counsel for the
petitioner and the learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Sitamarhi P.S. Case No. 149 of 2021 registered for the offences punishable under Sections 147, 149, 447, 504, 307 and 302 of the Indian Penal Code and Section 27 of the Arms Act.

The case of the prosecution, in brief, according to the informant, is that on the alleged date and time of occurrence, the wife of the informant, one Mahanth Narayan Das and son of the informant, namely, Vinit Kumar were preparing for performing puja of God and, in the meantime,



the FIR named co-accused persons along with 15 unknown persons had arrived at the gate of the temple and had asked the informant to come outside the temple, however, when he had refused to do so, the co-accused person, namely, Satyam Kumar had caught hold of the informant and dragged him outside the temple, however, on account of intervention by the wife of the informant and the aforesaid Mahanth Hari Narayan Das, the informant could be saved, whereafter the gate of the temple was closed. It is further alleged that thereafter, the co-accused persons, namely, Sivam Kumar and Satyam Kumar opened fire, upon being exhorted by the co-accused person Nirmala Mishra, through the holes in the gate, resulting in the wife of the informant and the aforesaid Mahanth Hari Narayan Das being injured and subsequently the said Mahanth Hari Narayan Das had succumbed to his injuries.

The learned counsel for the petitioner has submitted that the petitioner is innocent and he has been falsely implicated in the present case.



The learned counsel for the petitioner has further submitted that though the petitioner is an accused in one another criminal case but he is on bail in the said case. The learned counsel for the petitioner has next submitted that as far as the petitioner is concerned, he has not been alleged to have engaged in any sort of firing muchless in assaulting the informant and his family members. It is further submitted that one Subhash Kumar Jha was arrested in connection with Dumra P.S. Case No. 202 of 2021 and upon interrogation by the police, he is stated to have disclosed that the petitioner was also one of the person, who was present at the time of the aforesaid occurrence, near the temple. However, it is submitted that barring the said fact, no other allegation has been levelled against the petitioner.

Per contra, the learned A.P.P. for the State has though vehemently opposed the prayer for grant of anticipatory bail but has not denied the fact that there is no allegation of the petitioner having fired any gun shot or having assaulted the



informant and his family members.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record as also considering the fact that firstly, the petitioner is not named in the FIR, secondly, he is not alleged to have fired gun shots and thirdly, he has not been alleged to have engaged in any sort of specific overtact qua the injured or dead person, I deem it fit and proper to admit the petitioner herein to the privilege of anticipatory bail.

Accordingly, the petitioner, above named, is directed to be released on anticipatory bail in the event of his arrest/surrender before the court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi, in connection with Sitamarhi P.S. Case No. 149 of 2021 subject to the conditions as



stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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