

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58258 of 2022

Arising Out of PS. Case No.-109 Year-2021 Thana- KARAKAT District- Rohtas

SANOJ TIWARI @ SANOJ KUMAR TIWARY S/o Lal Babu Tiwari @ Srilal
Tiwari Resident of village- Dhodhandih, P.S.- Kachhwa, District- Rohtas.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rama Kant Sharma, Sr. Advocate Mr. Santosh Kumar Pandey, Advocate Ms. Shatabdi Sinha, Advocate
For the informant	:	Mr. Rajendra Naraian, Sr. Advocate Mr. Sunil Kr. Singh, Advocate
For the State	:	Mr. Jagdhar Prasad, App

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 22-03-2023 Heard learned Sr. counsel for the petitioner, learned
Sr. counsel for the informant and the learned APP for the State.

Petitioner seeks regular bail in connection with
Karakat P.S. Case No. 109 of 2021 registered for the offences
punishable under Sections 341, 323, 307, 504, 302/120(B)/34 of
the Indian Penal Code and Section 27 of the Arms Act.

As per the prosecution, informant has alleged that
due to land dispute, the petitioner and other co-accused persons
assaulted the informant and his brother Dharmendra Tiwari
(deceased) and when they tried to flee away, firstly this
petitioner opened fire upon them and thereafter co-accused
Ashish Tiwari and Manoj Tiwari @ Pintu Tiwari also started



firing indiscriminately which hit the informant's brother, as a result of which, he died on the spot. It is further alleged that one co-accused Lal Tiwari was responsible for carrying out this incident.

The main submissions advanced by the learned Sr. counsel for the petitioner are that the petitioner is a government teacher by profession and he has been languishing in jail since 19.06.2022 and in actual on the alleged day and time of occurrence, the petitioner was present in his school and in this regard, his attendance sheet issued by his school has been filed as Annexure - 3 and tower location of one mobile SIM which was being used by this petitioner was also found at Sitamarhi when the alleged incident took place as per investigation and as per the allegation made in the FIR, the petitioner fired only one shot at the initial time of the happening of the alleged commission of the occurrence and the allegation of indiscriminate firing is against co-accused persons and one of the assailants, namely, Manoj Tiwari, was found dead on the same day of the occurrence near the place of occurrence and the petitioner also lodged an FIR bearing Kacchua P.S. Case No.36 of 2021 on 08.07.2021 with regard to an incident of firing made upon him by his co-villager, namely, Dharmendra Tiwari and



admittedly in between the parties, a land dispute was running when the alleged occurrence took place and sufficient documents have been filed to substantiate petitioner's the plea as to his non-presence at the place of occurrence at the relevant time of the commission of the alleged offence of murder.

On contrary, learned Sr. counsel appearing for the informant has vehemently opposed the bail prayer and submitted that co-accused Manoj Tiwari died on account of cardiac arrest and in this regard, sufficient facts have been noted by the investigating officer in paragraph no.21 of the case diary and during investigation, tower location of two mobile SIMs which were being used by this petitioner was found near the place of occurrence when the alleged occurrence took place which is sufficient to show that the petitioner was present on or near the place of occurrence when the alleged occurrence took place and the FIR of the present matter was lodged on 09.07.2021 at 09:45 p.m., while the petitioner had lodged his FIR on 08.07.2021 at 04:30 p.m. and as per the postmortem report, the deceased sustained three wounds of entry at vital parts of his body and the same are sufficient to show the gravity of the offence and also support the allegation made in the FIR.

Heard both the sides, perused the FIR, case diary of



this case. Considering the seriousness of the occurrence and mainly the facts that as per investigation, the tower location of two mobile SIMs which were being used by this petitioner, was found near the place of occurrence during the relevant time of commission of occurrence and petitioner is named in the FIR and there is direct and specific allegation against him and admittedly there was not good relation in between both the parties, in my opinion, petitioner does not deserve to the privilege of bail. Accordingly, his bail prayer stands rejected.

Petitioner may renew his bail prayer after six months from the date of this order, if any significant progress is not made in his trial by the trial court.

(Shailendra Singh, J)

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