

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61155 of 2022

Arising Out of PS. Case No.-108 Year-2022 Thana- RAJNAGAR District- Madhubani

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VIJAY MUKHIYA @ VIJAY KUMAR MUKHIYA Son of Shivilal Mukhiya
Resident of village - Chakdah, P.S.- Rajnagar, District - Madhubani.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 62115 of 2022

Arising Out of PS. Case No.-108 Year-2022 Thana- RAJNAGAR District- Madhubani

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SHYAM KUMAR DAS @ SHYAM DAS @ SHYAM PRAVESH DAS S/O
Shivji Das R/O Village- Chakdah, P.S Rajnagar, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 61155 of 2022)

For the Petitioner/s : Mr.Abhay Shankar Singh, Adv.

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

(In CRIMINAL MISCELLANEOUS No. 62115 of 2022)

For the Petitioner/s : Mr.Ashok Kumar, Adv.

For the Opposite Party/s : Mr.Syed Ehteshamuddin, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 03-02-2023 Heard learned counsel for the petitioners and the State
through video conferencing in view of the Covid-19.

The petitioners apprehend their arrest in connection
with Rajnagar P.S. Case No. 108 of 2022 instituted under
Sections 302/120B of the Indian Penal Code and Section 27 of
the Arms Act.



As per the prosecution story, the allegation is that two petitioners herein, Vijay Mukhiya and Shyam Kumar Das came to her residence and took away her husband, Sanjeet Yadav and later she came to know that the accused persons have killed her husband. The specific allegation has been made against Sahdeo Yadav of opening fire on the chest of her husband and further on Rohit Yadav on firing in the abdomen of her husband whereafter allegation against named accused persons is/are of resorting of indiscriminate firing.

The case of the defence is that :

(i) even as per the FIR, there is no allegation of firing upon this petitioner and further 7 persons named in the FIR had killed the deceased under a conspiracy with two others named in the FIR. There is no allegation of any overt act on the petitioner being involved in killing in any manner;

(ii) the further submission is that as a matter of fact, the petitioner and the deceased were friends and in a routine manner they used to visit together and the place of occurrence was a land adjacent to Mithila Meat House which was owned by the deceased and everyone in the village knew this fact;

(iii) further, the petitioner also accompanied the injured husband of the informant to hospital alongwith Phool



Yadav and others and the said fact can be verified by the police from CCTV footage as and also through the hospital records;

(iv) one of the prime accused, Ajit Yadav who was arrested by the police confessed to have killed Sanjit Yadav in order to avenge the murder of his brother Kamlesh Yadav in which the deceased was also a suspect and non FIR named accused;

(v) none of the eyewitness named the petitioner to be involved in firing upon the deceased or had helped the accused in any manner in commission of crime;

(vi) there is nothing against him except the bald statement about the deceased having gone with the petitioner and one another Shyam Das about an hour prior to the occurrence'

(vii) further, no motive attributed or found against this petitioner for being involved in the offence and there is no other material to link the petitioner even with previous land dispute or case of murder of Kamlesh Yadav, in which the deceased was an absconding accused.

So far as the petitioner, Shyam Kumar Das (Cr. Misc. No. 62115 of 2022) is concerned, no independent witness has supported the version of the informant regarding his involvement too.



Learned APP on the other hand opposes the prayer for bail stating that these two petitioners took away the husband of the informant whereafter he was killed.

Having taken note of the rival submissions, the Court finds that specific allegation is against Sahdeo Yadav and Rohit Yadav of opening fire causing injury on the chest and abdomen of the deceased which proved fatal.

Further allegation is against other named accused persons of resorting to indiscriminate firing. However, as per the averment made in the petition, the petitioner, Vijay Mukhiya took away the injured husband of the informant to the Hospital and according to the petition, the same was also captured in the CCTV footage.

So far as the petitioner, Shyam Kumar Das is concerned, against him too, there is nothing that has been attributed save and except that he was also with Vijay Mukhiya

Further, none of the two petitioners have criminal antecedents and ultimately, they will have to face the trial, this Court is inclined to extend them privilege of anticipatory bail.

Let the petitioners be released on bail, in the event of their arrest or surrender before the subordinate court within a period of four weeks from the receipt of this order, on furnishing



bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each in connection with Rajnagar P.S. Case No. 108 of 2022 to the satisfaction of learned A.C.J.M.-1st, Madhubani, subject to the conditions as laid down under Section 438(2) of the Cr.P.C and with the further conditions :

(i) one of the bailor should be the family member of the petitioners who shall provide official document to show his/her bona fide;

(ii) the petitioners shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial Court itself;

(iii) the petitioners shall co-operate in the investigation and make themselves available to the police as and when required;

(iv) the petitioners shall appear before the concerned police station every fortnight for next six months to mark their attendance;

(v) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;



(vi) the petitioners shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of their bail bonds.

(Rajiv Roy, J)

Ajay Singh/-

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