

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48018 of 2024

Arising Out of PS. Case No.-87 Year-2024 Thana- KALYANPUR District- Samastipur

Kundan Kumar S/o Surendra Rai R/o vill - Muktapur, P.S. - Kalyanpur, Distt.
- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashank Shekhar, Advocate

For the Opposite Party/s : Mr. Vinod Shanker Modi, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 18-09-2024 Heard Mr. Shashank Shekhar, learned Advocate for
the petitioner and the learned APP for the State.

2. Application for grant of bail to the petitioner, who is in custody in connection with Kalyanpur P.S. Case No.87 of 2024 registered for the offence punishable under Sections 302 & 120-B of the Indian Penal Code and Section 27 of the Arms Act.

3. On the alleged date of occurrence, the petitioner along with co-accused Nitik Kumar came to the house of informant and accompanied her son along with them to the market. In the next morning, the informant received an information that her son was killed by the accused persons. She rushed to the place of occurrence where she found that her son was lying in pool of blood. He was taken to the hospital where in course of treatment he succumbed to the injury and after



performing all the rituals the present FIR has been instituted.

4. Learned Advocate for the petitioner drawing the attention of this Court to the FIR firstly contended that with regard to the alleged occurrence, which took place on 12.03.2024, the present FIR has been instituted on 05.04.2024, after a delay of 23 days. At no point of time, either at the time of treatment of the deceased or while the *post mortem* was done, neither the *fardbeyan* of the informant was recorded nor she filed any written report but surprisingly after cremation and performing shraadh this present FIR has been instituted. It is further contended that the informant is not an eye-witness to the alleged occurrence and so far the statement of Siya Ram Rai, who is said to be uncle of the deceased, he has stated that in fact in the course of scuffle with one Vikash Kumar Jha inadvertently the deceased has sustained firearm injury caused by the petitioner, which was not the intentional one. It is also contended that prior to the institution of the present case on the statement of one Vikash Kumar Jha, Kalyanpur P.S. Case No.63 of 2024 was recorded and making it the basis, the present case has been instituted. It is lastly contended that though the petitioner has been made accused in other two criminal cases but the same is also somewhat connected with the present case.



Be that as it may, now the investigation of the crime is complete and the charge-sheet has been submitted.

5. On the other hand, learned APP for the State vehemently opposed the bail application and submitted that even if the statement of Siya Ram Rai and Vikash Kumar Jha are taken note of, it appeared that it was the petitioner on whose firing the deceased has sustained injury which resulted into his death.

6. Regard being had to the submissions made on behalf of the parties and considering the specific nature of the accusation as also the statement of aforementioned witnesses, this Court is not persuaded to enlarge the petitioner for present. However, the petitioner shall be at liberty to renew his prayer for bail after framing of the charge.

(Harish Kumar, J)

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